JPRS-EER-91-025-S
28 FEBRUARY 1991

Foreign Broadcast Information Service 50 ANNIVERSARY 1941 - 1991

JPRS Report
Supplement

East Europe

Recent Legislation

FBIS 50th Anniversary Note

To Our Consumers:

This year the Foreign Broadcast Information Service observes its 50th anniversary.

The service, first called the Foreign Broadcast Monitoring Service, was established in 1941 prior to the U.S. entry into World War II. At the time, a number of U.S. Government officials were concerned about the content of foreign radio broadcasts—a relatively new means of conveying information and propaganda across borders. On their advice, President Franklin D. Roosevelt in late February 1941 allotted money from his emergency fund to institute the recording, translating, transcribing, and analyzing of selected foreign broadcasts for the U.S. Government. During World War II the service demonstrated that monitoring was a fast, economical, and reliable way to follow overseas developments.

Today the Foreign Broadcast Information Service provides its consumers throughout the federal government, according to their diverse official interests, with information from a broad range of foreign public media. FBIS information also is available to readers outside of the government, through the National Technical Information Service. Objectivity, accuracy, and timeliness are our production watchwords.

We members of the current staff of FBIS extend our thanks to consumers for their interest in FBIS products. To past staffers we extend our thanks for helping the service reach this anniversary year. At the same time, we pledge our continued commitment to providing a useful information service.

R. W. Manners
Director
Foreign Broadcast Information Service

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JPRS-EER-91-025-S *28 February 1991*

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CZECHOSLOVAKIA

Constitutional Law on Fundamental Rights

91CH0298A Prague LIDOVE NOVINY in Czech 16 Jan 91 pp 6-7

[Constitutional law dated 9 January 1991 by which the CSFR Federal Assembly enacts a Bill of Basic Rights and Freedoms]

[Text] The Federal Assembly has passed the following constitutional law:

Section 1

1. Constitutional laws, other laws, and legal regulations must be interpreted and used in accordance with the Bill of Basic Rights and Freedoms.

2. The basic rights and freedoms included in the Bill of Basic Rights and Freedoms are protected by the Constitutional Court.

Section 2

International agreements concerning human rights and basic freedoms ratified and decreed by the CSFR are fully binding on its territory and take precedence over law.

Section 3

1. Basic rights and freedoms in the constitutions of the Czech and Slovak Republics may be extended beyond those provided by the Bill of Basic Rights and Freedoms.

2. This constitutional law does not alter the constitutional laws specifying the distribution of legislative authority between the federation and the republics.

Section 4

Article 5 of constitutional law No. 143/1968, Laws of the CSFR concerning the Czechoslovak federation, amended by later regulations, reads:

"1. A citizen of either republic is also a citizen of the Czech and Slovak Federal Republic.

"2. A citizen of one republic, while on the territory of the other republic, has the same rights and responsibilities as a citizen of that republic.

"3. No one can be deprived of their citizenship against their will.

"4. A Federal Assembly law establishes the principles for obtaining and renouncing citizenship in the republics."

Section 5

The following are revoked:

1. Articles 7-9, Chapter 2 (articles 19-38), and Article 98, Paragraph 4 of constitutional law No. 100/1960, Sb. of the Constitution of the Czech and Slovak Federal Republic, as amended by subsequent regulations.

2. Constitutional law No. 144/1968, Sb. concerning the status of nationalities in the CSFR.

Section 6

1. Laws and other regulations must conform to the Bill of Basic Rights and Freedoms no later than 31 December 1991. Provisions that are not in line with the Bill of Basic Rights and Freedoms on this date cease to be valid.

2. Authority granted to a court or a judge under Article 8, Paragraphs 3, 4 and 5, and Article 12, Paragraph 2 of the Bill of Basic Rights and Freedoms are granted to a prosecutor through 31 December 1991 if a law so provides.

Section 7

This constitutional law and Bill of Basic Rights and Freedoms take effect on the day of their announcement.

The Federal Assembly, based on proposals of the Czech and Slovak National Councils, recognizing the unalienable natural rights of man, the rights of citizens, and the supremacy of law; building on generally shared human values and the democratic and self governing traditions of our peoples; remembering the bitter experiences of times when human rights and basic freedoms were suppressed in our country; placing hopes for the safeguarding of these rights in the joint efforts of all free peoples; beginning with the right to self determination of the Czech and Slovak peoples; mindful of its share of the responsibility to future generations for the fate of all life on Earth; and expressing the will of the Czech and Slovak Federal Republic to be honorably included among the nations that honor these values has passed the following Bill of Basic Rights and Freedoms.

Chapter 1. General Provisions

Article 1

People are free and equal in dignity and in rights. Basic rights and freedoms are fully vested, inalienable, not subject to any statute of limitations, and irrevocable.

Article 2

1. The state is founded on democratic values and cannot commit itself either to an exclusive ideology or to a particular religion.

2. State power can be exercised only in cases and to a degree established by law and in a way prescribed by law.

3. Anyone can do anything not forbidden by law, and no one can be forced to do anything not required by law.

Article 3

1. Basic rights and freedoms are guaranteed to all without regard to sex, race, skin color, language, faith or religion, political or other convictions, national or social origin, nationality or ethnic membership, property, family origin, or other status.

2. Everyone has a right to freely determine his nationality. Any pressure to influence this decision is forbidden, as are all pressures directed at depriving a person of his nationality.

3. No one can limit the right to exercise basic rights and freedoms.

Article 4

1. Responsibilities can be assigned only on the basis of the law and within its guidelines and only to preserve basic rights and freedoms.

2. The limits of the basic rights and freedoms can be altered only by law, and under the conditions set forth in the Bill of Basic Rights and Freedoms (hereafter: Bill).

3. Legal restrictions on basic rights and freedoms must apply equally for all instances that meet the established conditions.

4. The foundations and meaning of the basic rights and freedoms must be studied before applying limitations to them. These restrictions cannot be misused for other than their stated purpose.

Chapter 2. Human Rights and Basic Freedoms

Part One. Basic Human Rights and Freedoms.

Article 5

Every person has rights.

Article 6

1. Every person has a right to life. Human life is worthy of protection even before birth.

2. No one may be deprived of life.

3. The death penalty is prohibited.

4. It is not a violation of the rights in this article if someone is killed in conjunction with a matter that is not punishable under the law.

Article 7

1. The inviolability of each person and his privacy are guaranteed. It can be restricted only in cases established by law.

2. No one can be tortured or subjected to cruel, inhuman, or degrading treatment or punishment.

Article 8

1. Personal freedom is guaranteed.

2. No one may be prosecuted or deprived of freedom other than by due process of law. No one can be deprived of freedom solely for an inability to meet a contractual obligation.

3. Someone accused or suspected of a crime can be detained only in cases established by law. The detained person must be immediately informed of the reasons for the detention, interrogated, and either released within 24 hours or arraigned. Within 24 hours of the arraignment the judge must interrogate the detained person and decide whether to take the person into custody or release the person.

4. An accused can be arrested only with written orders from a judge. The arrested person must be turned over to a court within 24 hours. Within 24 hours a judge must interrogate the arrested person and decide whether to take the person into custody or release the person.

5. No one can be taken into custody except on the grounds and for the periods of time established by law, and based on the decision of a court.

6. The law defines cases in which an individual can be committed to or detained in an inpatient institution without consent. Such instances must be reported to a court within 24 hours, and the court must rule on the confinement within seven days.

Article 9

1. No one can be subjected to forced labor or service.

2. The provisions of Paragraph 1 do not apply to:

a) Work assigned by law to individuals serving a prison sentence or another sentence in place of a prison sentence;

b) Military service or other service established by law as alternative service;

c) Service requested under law in cases of natural disasters, accidents or other dangers that threaten lives, health or significant property values;

d) Actions taken under law to protect life, health, or the rights of others.

Article 10

1. Everyone has the right to the protection of his human dignity, personal honor, good reputation, and to the protection of his name.

2. Everyone has the right to protection from unjustified intrusion into their private and family life.

3. Everyone has a right to protection from the unjustified gathering, publication, or other misuse of personal data.

Article 11

1. Everyone has the right to own property. Ownership rights are the same for all owners and receive equal protection. The right of inheritance is guaranteed.

2. The law determines which property, essential for assuring the needs of society at large, national economic development, and the public interest, can be owned only

by the government, a municipality, or designated legal individual. The law can also determine which things can be owned only by citizens or legal individuals headquartered in the CSFR.

3. Ownership is binding. It cannot be misused to the detriment of the rights of others or in conflict with legally protected general interests. The exercise of ownership cannot harm human health, nature, or the environment in excess of legally established levels.

4. Expropriation or the forced limitation on ownership rights is possible only in the public interest and in such cases must be legal and include compensation.

5. Taxes and payments can be levied only in accordance with the law.

Article 12

1. Domicile is inviolable. It is not permissible to enter a home without the permission of the person living there.

2. A house search is allowed only for purposes of criminal investigation, and then only with a warrant issued by a court. The law establishes rules governing home searches.

3. Other violations of the inviolabilty of domicile can be permitted by law only if essential in a democratic society to protect the life or health of individuals, the rights and freedoms of others, or to prevent serious threats to public safety and order. If a domicile is being used for business or the conduct of other economic activities the law may permit searches if they are essential for the fulfillment of public administration duties.

Article 13

No one mav violate the secrecy of correspondence or of other written documents and records, whether they are stored in private, sent in the mail, or in another manner, with the exception of cases established by law. The secrecy of information transmitted by phone, telegraph, or other equipment is also guaraneteed.

Article 14

1. Freedom of movement and residence is guaranteed.

2. Everyone who is legally resident on CSFR territory is free to leave that territory legally.

3. These freedoms can be limited by law if this is essential for state security, to maintain public order, protect health or the rights and freedoms of others, or to protect nature in certain defined areas.

4. Every citizen has the right of free access to CSFR territory. No citizen can be forced to leave his homeland.

5. Foreigners can be expelled only in cases prescribed by law.

Article 15

1. Freedom of thought, conscience, and religion is guaranteed. Everyone has the right to change his religion or faith or to be without a religious affiliation.

2. Freedom of scientific inquiry and artistic creation is guaranteed.

3. No one can be forced to perform military service if this is in conflict with their conscience or with their religious convictions. The law specifies details.

Article 16

1. Everyone has the right freely to practice their religion or faith, either alone or with others, privately or publicly, in religious services, through education, religious rites, or the observance of rituals.

2. The church and religious societies administer their affairs and, in particular, establish their own offices, appoint their own officials, organize orders and other church institutions independent of government offices.

3. The law sets forth conditions for religious education at state schools.

4. The exercise of these rights may be limited by law if this involves measures essential in a democratic society to protect public safety and order, health and morals, or the rights and freedoms of others.

Part Two

Article 17

1. Freedom of speech and the right to information are guaranteed.

2. Everyone has the right to express their opinions verbally, in writing, in print, in pictures, or in other ways, as well as freely to seek out, accept, and disseminate ideas and information without regard to state borders.

3. Censorship is forbidden.

4. Freedom of speech and the right to gather and disseminate information may be limited by law if this involves measures essential in a democratic society to protect the rights and freedoms of others, state security, public safety, or to protect public health and morals.

5. State and territorial administrative offices are required to make available information on their activities. The conditions and forms for providing this information are set by law.

Article 18

1. The right of petition is guaranteed. In public matters or other matters of interest to the society at large everyone has the right to approach alone or with others government and territorial administrative offices with requests, proposals, and complaints.

2. Petitions cannot interfere with judicial independence.

3. Petitions cannot be used to incite the violation of the basic rights and freedoms included in the Bill.

Article 19

1. The right of peaceful assembly is guaranteed.

2. This right can be restricted by law in cases of assembly in public places if this involves measures essential in a democratic society to protect the rights and freedoms of others, protect public order, health, morals, or state security. The right of assembly is not contingent on approval by public administration offices.

Article 20

1. The right of free association is guaranteed. Everyone has the right to join with others in associations, corporations, and other groups.

2. Citizens have the right to form political parties and political movements, and to join them.

3. The exercise of these rights can be restricted only as specified by law, and if it involves measures necessary in a democratic society to protect state security, public safety and order, to avoid criminal actions or to protect the rights and freedoms of others.

4. Political parties and political movements, as well as other associations, are independent of the state.

Article 21

1 Citizens Have the right to participate in the administration of public affairs directly or by freely electing their representatives.

2. Elections must take place according to schedules that do not exceed the regular election period established by law.

3. The right to vote is universal and equal and is exercised by secret ballot. The law establishes the conditions for exercising this right.

4. Citizens have equal access to elected and other public functions.

Article 22

The legal codification of all political rights and freedoms and their interpretation and use must make possible and protect the free competition of political forces in a democratic society.

Article 23

Citizens have the right to oppose anyone who would eliminate the democratic order of human rights and basic freedoms provided in the Bill if the functioning of constitutional bodies and the effective use of legal remedies have been inhibited.

Chapter 3. Rights of National and Ethnic Minorities

Article 24

Membership in any national or ethnic minority cannot be to anyone's disadvantage.

Article 25

1. Citizens comprising national or ethnic minorities are guaranteed comprehensive development and particularly the right to develop their own culture along with other members of the same minority, the right to gather and disseminate information in their native language, and to associate freely in national associations. Details are specified by law.

2. Citizens belonging to national and ethnic minorities, under conditions specified by law, are guaranteed

a) The right to an education in their native language;

b) The right to use their native language in official communications;

c) The right to participate in decisions affecting national and ethnic minorities.

Chapter 4. Economic, Social, and Cultural Rights

Article 26

1. Everyone has the right to freely choose their profession and related training, as well as the right to undertake other economic activities.

2. The law may set forth conditions and restrictions on the exercise of certain occupations or activities.

3. Everyone has the right to earn their living by working. Citizens who cannot exercise this right for no fault of their own are guaranteed material support from the government. Conditions are specified by law.

4. The law can make different provisions for foreigners.

Article 27

1. Everyone has the right to associate with others to protect their economic and social interests.

2. Trade union organizations are set up independent of the state. The number of trade union organizations cannot be limited, nor can any organizations at the enterprise or branch level be granted any advantages over any other.

3. The activities of trade union organizations and the founding and activities of these associations to protect economic and social interests can be limited by law if this involves measures essential in a democratic society to protect state security, public order, or the rights and freedoms of others.

4. The right to strike is guaranteed under conditions set forth by law. This right does not extend to judges, prosecutors, members of the military, and members of the police.

Article 28

Employees have the right to just compensation for work and to satisfactory working conditions. Details are specified by law.

Article 29

1. Women, youth, and handicapped people have a right to enhanced health protection at work and under unusual working conditions.

2. Young people and handicapped people have a right to special protection on the job and to assistance in job training.

3. Details are specified by law.

Article 30

1. Citizens have a right to appropriate living conditions in old age, when they are disabled, and when they lose a provider.

2. Everyone in material need has a right to that level of assistance needed to provide basic living conditions.

3. Details are specified by law.

Article 31

Everyone has a right to health care. Public health insurance assures citizens the right to free health care and to health aids under conditions prescribed by law.

Article 32

1. Parenthood and the family are protected by the law. Special protection for children and youth is guaranteed.

2. Pregnant women are guaranteed special attention, protection at work, and appropriate working conditions.

3. Children born both in and out of wedlock have equal rights.

4. To raise and care for children is a parental right. Children have a right to parental care and upbringing. The rights of parents can be limited and minor children can be taken away from parents against their will only based on a court ruling under the law.

5. Parents raising children are entitled to government support.

6. Details are specified by law.

Article 33

1. Everyone has a right to an education. School attendance is compulsory for the length of time specified by law.

2. Citizens have a right to free education in public and high schools and, depending on citizen ability and the resources available to society, at colleges as well.

3. The establishment of other schools and their operation is possible only under the conditions specified by law. Education may be provided for a fee at such schools.

4. The law sets forth the conditions under which citizens are entitled to state support for their education.

Article 34

1. Rights to results of creative artistic work are protected by law.

2. The right of access to cultural treasures is guaranteed under conditions specified by law.

Article 35

1. Everyone has a right to a healthy environment.

2. Everyone has a right to full and timely information on the state of the environment and natural resources.

3. When exercising their rights no one can threaten or damage the environment, natural resources, specific natural areas, or cultural monuments in excess of the extent allowed by law.

Chapter 5. Rights to Court and Other Legal Protection

Article 36

1. Everyone can claim their rights using accepted procedures at independent and impartial courts and under specific conditions at other authorities.

2. Everyone who claims to have had their rights violated by the decision of a public administrative authority can petition a court to research the legality of the decision, unless the law prohibits this inquiry. The researching of cases involving the potential violation of the basic rights and freedoms contained in the Bill, however, cannot be removed from court jurisdiction.

3. Everyone has a right to compensation for damages caused by an illegal decision by a court, another government, or public administrative authority or because of improper official procedures.

4. Details are specified by law.

Article 37

1. Everyone has a right to refuse testimony if responding would expose that person or someone close to them to the threat of prosecution.

2. Everyone has a right to legal assistance in preparing cases for court, for other government or public authorities, from the inception of the case.

3. All participants are equal in legal proceedings.

4. Anyone who claims not to understand the language of the proceedings is entitled to an interpreter.

Article 38

1. No one may be deprived of his right to a trial. The law governs the jurisdiction of courts and judges.

2. Everyone has a right to a public trial as soon as possible and with the defendant present, so the defendant can respond to all evidence against him. The public can be excluded under conditions established by law.

Article 39

Only the law can determine which acts are crimes and the punishment, including losses of rights or property, that can be imposed for committing the crime.

Article 40

1. Only the court can determine guilt and sentencing for crimes.

2. A person being tried is presumed innocent until a legally binding court verdict determines that he is guilty.

3. The accused has the right to enough time to prepare a defense and to defend a case either himself or through a lawyer. If a defendant does not name a lawyer, the court will assign one to the case. The law determines those cases where an accused is entitled to free legal defense.

4. A defendent can refuse to testify. This right cannot be taken away.

5. No one can be prosecuted for a crime for which he has already been convicted or acquitted. This principle does not exclude the application of special remedial means in accordance with the law.

6. The seriousness of a crime and the sentence is rendered based on the law in force at the time when the crime was committed. A more recent law can be applied if this is favorable to the defendent.

Chapter 6. Common Provisions

Article 41

1. The rights included in Article 26, Article 27, Paragraph 4, Articles 28-31, article 32, Paragraphs 1 and 3, article 33 and article 35 of the Bill can be exercised only within the constraints of the laws that implement these provisions.

2. Where the Bill mentions a law, this is understood to be a Federal Assembly law, unless the constitutional division of legislative powers vests the authority in a National Council law.

Article 42

1. When the Bill uses the term "citizen", this means a citizen of the CSFR.

2. Foreigners in the CSFR enjoy the same human rights and basic freedoms guaranteed by the Bill, unless the rights are explicitly reserved for citizens.

3. When existing regulations use the word "citizen" this is understood to mean every individual, when there is a question of the basic rights and freedoms granted by the Bill to all persons regardless of nationality.

Article 43

The Czech and Slovak Federal Republic offers asylum to foreigners persecuted for exercising political rights and freedoms. Asylum can be denied a person who has acted contrary to the spirit of basic human rights and freedoms.

Article 44

The law may limit: the rights of prosecutors and judges to engage in entrepreneurial and other economic activity, and the right cited in Article 20, Paragraph 2; the rights of state and territorial administrative employees related to the functions determined by the right cited in Article 27, Paragraph 4; rights of members of the military related to the right cited in Article 18, Article 19, and Article 27, Paragraphs 1-3, when they are on duty. The law can restrict the right to strike of those working in occupations directly essential for the protection of life and health.

Procedures for Establishing Joint Venture Enterprises

90CH0286A Prague HOSPODARSKE NOVINY (supplement) in Czech 27 Jun-11 Jul 90, pp 1-23

[Regulations prepared by the Czech Commission for Planning and Scientific-Technical Development and the Ostrava Research Institute for Regional and Urban Development: "Procedures for Establishing Joint Ventures on the Territory of the CSFR"]

[Text]

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Developing a market environment while implementing radical economic reform assumes a process of denationalization, the economic decoupling of existing state enterprises from the state and their transformation into market entities, the national assets of which will be valued during business utilization. Also involved is a process of privatization including the formation of minimal conditions for the functioning of a market, a transition from planned pricing mechanisms to prices determined by the interaction of supply and demand, and a change in the tax system to guarantee the uniform taxation of all forms of business ownership and the equal taxation of the aggregate income of the population.

While the denationalization process can take place, after some preparation, in a single step, privatization is a process that must be broken up into several steps. An essential part of the fulfillment of these objectives will be the establishment of joint ventures with foreign capital participation on the territory of the Czech and Slovak Federal Republic [CSFR]. The importance and influence of these joint ventures should gradually increase, because they will serve as the bearers of progress, as an opening to the world. They will assist in accelerating the transfer of new technologies, the introduction of new equipment, the modernization of production, the implementation of rational and progressive forms of labor organization and proven management techniques for conditions of desirable and necessary competition. Joint ventures can help improve the sophistication and practical results of quality control procedures for production lines, products

and services, all of which are capable in a very short time of becoming comparable to those of developed countries.

This proposal for the formation of joint ventures with foreign property (capital) participation comes to you from the Czech Commission for Planning and Scientific-Technical Development. It is intended to add to the general knowledge concerning the potential of and procedures to follow in this area, in conjunction with a valid legal code. In enterprises, corporations, etc. this procedure for establishing joint ventures should make the decision making easier concerning undertakings with a foreign partner. The objectives should be to achieve effective integration, capital asset and labor utilization, the desired returns, greater output, higher profits, and return on investment. This in turn will meet social needs in terms of supply and demand, improved product variety, and improved quality and availability of services.

These procedures supplement the material of the Federal Ministry of Finance, "Procedure for Applying for Permission To Establish an Enterprise With Foreign Capital Participation", published in weekly edition No. 27 of HOSPODARSKE NOVINY. Anyone using these procedures who has any comments or suggestions regarding them should address these comments to Ostrava Research Institute for Regional and Urban Development, Prague 3-Zizkov Site, Konevova 33, PO Box 87, Prague 3.

1. Economic Legal Forms for Enterprises With Foreign Capital Participation and Procedure for Founding Them

The need for legal codification of the position of enterprises with foreign capital participation is related to the need for a transition to market relationships. This process has necessitated fundamental changes in the laws governing economic ties with foreign entities as well as legal changes in the position and role of joint ventures with foreign capital participation. This includes corporations as well as other economic legal and financial entities active in the market. Law No. 173/1988, Laws of the CSSR [Sb.] concerning enterprises with foreign capital participation was therefore reviewed and on 1 May 1990 a new law took effect, No. 112/1990 Sb. concerning enterprises with foreign capital participation, which changed and supplemented the original law.

The changes embodied in the new law can be summarized as follows.

—Simplification of the approval mechanism for establishing enterprises with foreign property (capital) participation;

—Possibility for foreign economic entities (including individual entrepreneurs) to set up enterprises in the CSFR independently, as long as they do so according to Czechoslovak laws;

—In addition to Czechoslovak economic entities (state, cooperative, and private firms) it is now possible for Czechoslovak individuals, i.e. legally authorized private entrepreneurs, to establish or participate in the operations of enterprises with foreign capital participation;

—The new law on enterprises with foreign capital participation offers an additional advantage to foreign participants by allowing them to begin their participation not only when the firm is first established but also at any subsequent date (this relates to the basic enterprise capital, not a normal business partnership);

—Enterprises with foreign capital participation can be established based on permission to set up such a firm, and can be founded by private individuals;

—Either the Czechoslovak participant or the foreign participant can apply for permission to found an enterprise with foreign capital participation;

—The law assures that the transfer of the share of the Czechoslovak participant is regulated by foreign currency regulations that offer optimal motivation for foreign entrepreneurs to enter into such ventures.

—Foreign currency considerations must be applied to decisions concerning permits for establishing joint ventures (these are the basis for achieving hard currency profitability); also the time frame for approving or denying the application has been set at two months (60 days);

—A reserve fund must be set up after the enterprise begins operations. The size and method for forming the fund will be determined by the enterprise charter;

—The law offers more liberal conditions for transferring profits, but retains the existing 30 percent foreign currency supply responsibilities contained in the implementation regulations of the foreign currency management law.

Foreign capital participation cannot consist solely of participation in daily enterprise operations (for instance a production cooperation contract or limited liability partnership). The foreign participant must contribute a specific property share to set up an enterprise with foreign capital participation. This can be a financial share (in hard currency), a technical contribution (machinery and equipment), technologies or technical procedures, know-how, license rights, rights to use inventions, copyrights, etc.

There is also a related need to conduct thorough economic and technical studies to evaluate the advantages and disadvantages of joint ventures. Contracts establishing joint ventures should be preceded by an agreement on the valuation of all contributions (foreign and domestic) made to the joint undertaking, taking into account the share of foreign capital. This share cannot be in excess of 49 percent of the basic enterprise assets. In relations with Czechoslovak economic entities joint ventures are governed by the provisions of the commercial code in that contracts may be signed on the basis of a

agreement covering preliminary deliveries instead of the usual contractual responsibilities. These enterprises cannot take advantage of provisions allowing the establishment, modification, and termination of binding relationships, or those provisions that do not apply strictly to enterprises with foreign capital participation or which are in conflict with its legal status. Legal disputes will be handled for the time being by state arbitration offices. In will be necessary gradually to involve the CSOPK, the courts (including registries), and specialized arbitrators and decisionmaking offices.

1.1 Basic Information on Future Joint Ventures and Potential Joint Venture Partners

Every potential participant in a joint venture has to make an objective appraisal of this information. The entrepreneurial objective, the starting point of a technical and economic analysis, can be briefly characterized as follows:

—When considering a joint venture particular attention should be given to whether the entrepreneurial objective of the Czechoslovak and foreign participants is to move towards a common economic goal, or whether there is a one-sided Czechoslovak interest in improving a production program, its export position, the acquisition of better equipment, etc., by cooperating with the foreign entity;

—The purpose and objective for establishing the joint venture. What made the participants decide to pursue this solution (the choice of an optimal economic and legal form for a foreign economic undertaking);

—What will the joint venture provide to its Czech and foreign participants;

—What is the purpose of the undertaking (reasons, assumptions, projected impact, prospects for future growth, supported by information about domestic and foreign markets);

—Specifics concerning the location, operations, and management of the joint venture;

—Decisions about the amount of basic capital needed for the enterprise, an assessment of its amount with regard to the planned activities of the firm, including the coverage of necessary startup expenditures and investments;

—Information gathered about the prospective foreign partner, its financial stability and the reasons for choosing the particular partner;

—Selection of a team of employees or the proposed strategy for hiring qualified people and training them systematically for responsible positions in the joint venture;

—The source of the funds needed for initial expenditures related to preparations, registration, and initial operations until the first revenues are realized (including foreign currency difficulties).

When considering potential cooperation with foreign partners external criteria must also be weighed:

—In comparison with medium size developed European countries our economy is one of shortages (dominated by an inappropriate production structure, low labor productivity, tight supplier-customer and financial relationships, obsolete technology and equipment, etc.);

—External economic relations continue to be dominated by a totally inappropriate commodity-territorial structure that intensifies imbalances;

—The decisionmaking process should also include the rational use of a system for obtaining primarily banking information and evaluating the interest of a potential partner in cooperation. This is related to the use of marketing to actively participate in creating the right conditions. This means knowing everything related to demand on a foreign market, including product research, potential customers, accepted business techniques of potential partners, prices, competitors, etc. Currently there are problems obtaining purposeful and accurate information on foreign markets and potential partners for Czechoslovak firms. Foreign firms interested in doing business with the CSFR face similar problems.

It is possible to request banking information or a credit report about a potential joint venture partner (including the status of his working capital, market position, reputation, etc.) from Czechoslovak banking institutions (mainly the Czechoslovak Commercial Bank), or to use the information available from existing foreign trade enterprises, or the services of the Czechoslovak Chamber of Business and Industry. These services are provided by the above mentioned institutions for a fee.

There are currently great entrepreneurial opportunities in the CSFR for Czechoslovak consulting, advisory, and representation firms providing these heretofore scarce services to Czechoslovak entrepreneurs independently of the banking system. The same services will gradually have to be available to provide information about potential business partners from the CSFR for interested foreign firms. For the time being interested foreign firms are using their traditional partners, the foreign trade organizations [OZO], for this information.

1.2. Basic Existing Ways for Czechoslovak Legal Entities To Obtain Foreign Currency

Enterprises are trying to deal with this problem through various forms of cooperation with firms from economically advanced countries, the goal is to obtain the modern equipment that is so lacking. So far only these

basic ways of obtaining foreign currency resources have been used by Czechoslovak legal entities:

—Obtaining resources from central foreign currency sources (this method practically stopped being used in 1990);

—Scientific and technical cooperation;

—Active and passive licensing;

—Loans repayable in foreign currencies;

—Exports within the system of foreign currency standards;

—Purchasing foreign currency at auction;

—Economic cooperation with foreign partners on third markets;

—Free economic zones;

—Establishing enterprises with foreign capital participation.

In line with the spirit of the new laws, in 1990 it will be possible to use many more variants and forms of broader production and financial cooperation and business partnerships with firms from the economically developed countries.

1.3. Description of Selected Types of Foreign Business Relations Based on Partial Foreign Currency Self-Payback

a) Production cooperation—Czechoslovak participation here consists mainly of providing mechanical parts for products and taking advantage of opportunities to engage in technically balanced, mutually beneficial cooperation.

b) Passive licenses from economically advanced countries and their use in Czechoslovakia—Compared with other countries there are great opportunities for the use of this form of cooperation, especially for the use of the results of foreign research; overall licensing policy also still has room for improvement.

c) Czechoslovak capital participation in foreign production enterprises is important particularly in cooperation with third countries and helps to give our products exposure in competition with state of the art foreign producers for market position. More balanced economic relations with Third World countries can be achieved through imports of technically less sophisticated products or their components as well as technically more advanced products produced by cooperative production relationships.

d) Agency agreements—An agreement between a Czechoslovak producer and a foreign trade organization to market products on foreign markets. The enterprise must have the right to choose the agent (OZO). Th agent does not have to have exclusive rights nor does the product in question have to be among the goods it usually handles.

e) Direct contractual relations—These grant permission to engage in foreign business activities in the areas of production technology cooperation. They are used typically with CEMA countries. Their intention is to allow enterprises to choose their partners freely.

f) Commission relationships between an OZO and a Czechoslovak firm—The OZO serves as a broker, working on commission.

g) Capital asset and durable good leasing agreements with fixed payments—These leases are either closed end or open end with option to buy. This is called operational leasing if the lessee is a manufacturer and financial leasing when engaged in by a specialized leasing company. Advantages for the lessee: It does not need to use its own, mainly foreign currency resources, it does not incur excessive debt levels, it incurs no risk of obsolescence or wear and tear, and usually has the option of purchasing a service contract. Disadvantages for the lessee: increased fixed costs; the total lease amount sometimes exceed the acquisition cost of the equipment.

h) Offset deals—A special type of business transaction in foreign trade, based on the direct exchange of goods for goods, without foreign currency changing hands. In other words, nonmonetary business deals between countries. The importers in each country pay the value, in local currency, of the imported goods to their own exporters. This kind of trade is based on the equivalent value of two deliveries. These deals include not only the price of the goods, but auxiliary costs as well (freight, insurance, etc.).

In practice the following kinds of compensation are used:

—Auto-offset, where the exporter is also the importer and compensates for the transaction itself (barter);

—Global offset, where there are multiple entities on both ends of the deal (involves the use of a compensation negotiator);

—Subsidized offset, where the importer (and sometimes the state) subsidizes a lower local price for the goods with a compensation subsidy that allows the deal to go through.

i) Countertrade—A general term for several types of trade, including barter. It assumes several forms:

—Counterpurchase, where exporters agree to purchase a fixed amount of goods from a country whenever that country buys from them;

—Offset, described in the preceding section; the seller guarantees that it will use goods and services from the buying country in a product;

—Buyback, where the exporter agrees to be paid with products produced on its equipment;

—Barter, or the simple exchange of one good for another;

—Switch trading, a complex form of barter involving a chain of buyers and sellers in various markets.

The goal of these and other forms is to strengthen international specialization and, especially, cooperation in the production and R&D areas. They involve a shift from intersectoral specialization to intra- and inter-industrial cooperation with many commercial advantages.

The above forms of foreign commercial relations are available across the board, including joint ventures with Czechoslovak legal entities (including private entrepreneurs).

1.4. Procedure for Establishing an Enterprise With Foreign Capital Participation

The new economic legal form, enterprise with foreign capital participation, is understood to be a legal entity engaged in economic activities, with headquarters on the territory of Czechoslovakia, in the establishment and ongoing management of which there is a foreign participant.

The term "foreign participant" is used as defined in Law No. 112/1990, Sb., as a legal entity with headquarters, or an individual with permanent residence outside the CSFR which contributes its capital to the formation of an enterprise and then participates in enterprise operations.

The Czechoslovak participant in this enterprise is a legal entity with headquarters or a permanent residence on the territory of the CSFR, which contributes its capital, in addition to that of the foreign participant, to the formation and subsequent management of an enterprise.

Czechoslovak legal entities include existing state enterprises, as defined in Law No. 111/1990, Sb., cooperative organizations as defined in Law No. 162, Sb. concerning agricultural cooperatives and Law No. 176/1990, Sb. concerning housing, consumer goods, production, and other cooperatives. The position of OZO is codified in Law No. 113, Sb. dated 18 April 1990 which amends and supplements Law No. 42/1980, Sb. concerning foreign economic relations, as amended by Law No. 102/1988, Sb. (the full text of which is in Law No. 184/1988, Sb.). Also to be considered are existing corporations set up under Law No. 243/1949, Sb.. An updated law on corporations was passed by the Federal Assembly as Law No. 104/1990, Sb.. One should also expect related legal regulations to be issued (Including the possibility for private entrepreneurs to set up joint ventures under law No. 105/1990, Sb. concerning individual entrepreneurship by citizens, and Law No. 103/1990, Sb. which amends and supplements the commercial code, allowing the creation of business and other corporations).

The proposed legal changes also apply to situations where an enterprise is set up or run exclusively by a foreign participant. Law No. 104/1990, Sb. concerning corporations applies to the establishment, legal form of, legal rights of, and dissolution of such enterprises.

An enterprise with foreign capital participation in the CSFR can be established with permission of the Federal Ministry of Finance in conjunction with the MFCM [Ministry of Prices and Wages] of the republic on the territory of which the firm will be located. If the enterprise will be active in banking the Czechoslovak State Bank must grant permission for its establishment.

The potential of joint ventures was shown by an international conference in Janov held on 1-3 March 1989 under the sponsorship of the Italian Government and the Janov Business and Industrial Chamber. Based on their conclusions the secretariat of the European Economic Conference developed another handbook to support the establishment and operation of joint ventures (So far the following studies have been published: "EAST-WEST Joint Ventures, Economic, Business, Financial, and Legal Aspects", and "EAST-WEST Joint Ventures Contracts").

1.4.1. Application for a Permit To Set Up an Enterprise With Foreign Capital Participation

An application can be submitted by any participant in the joint venture and must contain, under the law, the following information:

—The name, headquarters, and legal form of the proposed enterprise;

—The business purpose of the proposed enterprise;

—The name, headquarters, and residence of all participants in the joint venture;

—The businesses in which the participants are currently involved;

—The amount of basic assets (there is no required maximum or minimum);

—The shares of each participant (the form and currency in which these assets are denominated is at the discretion of the participants; likewise the question of majority ownership is not restricted and can be decided by the participants);

—The amount of the reserve fund (minimum is ten percent of the basic assets, and must be added to annually in the amount of at least five percent of profits. The actual amount is set by the enterprise charter. A portion of the reserve fund must be in foreign currency;

—Rights and responsibilities of the participants;

—Participant representation in the offices of the enterprise, if such representation is allowed in the chosen legal form of the enterprise;

—The conditions under which new participants may join or existing participants may leave the enterprise;

—The means for distributing profits and covering losses, to the extent that the legal form of the enterprise does not deal with these questions (profits may be distributed among participants only after taxes have been paid and allocation made to funds);

—Statement of how operating costs will be paid.

An application should include a supplement with:

—A proposed contract establishing the firm (if the enterprise with foreign capital participation includes multiple entities);

—A proposed enterprise charter (or constitution, depending on the chosen legal form).

Applications will be judged based on the assumptions and guarantees offered by the enterprise for successful operations and its own profitability, i.e. whether its economic activities will generate sufficient financial resources in Czechoslovak and foreign currency. A decision will be made no later than 60 days after the application is submitted.

Only the Federal Government can issue an ordinance allowing the establishment of an enterprise without prior permission.

In contrast with previous laws, the current law does not require submission of technical and economic analyses of the proposed business. These are, however, very important documents for the entrepreneurs themselves and should be a part of the planning of any business enterprise. Abroad this analytical exercise is normally called a feasibility study, or feasibility report. There is no accepted form or structure for such reports, although a sample provided by UNIDO is frequently used.

Joint ventures are established as legal entities when they are recorded in the enterprise register, which is maintained by the registration court. Applications for entry into the enterprise register have their own requirements.

1.4.2. Request for Entry in the Enterprise Register

Request for inclusion in the enterprise register must include the following (these regulations apply to all legal forms, including corporations):

—The business name of the firm and its headquarters;

—The date and type of agreement made to establish the firm;

—The first name, last name, family status, and residence of each participant in a joint venture;

—Information about which of the participants will speak for the firm in public; it is possible for participants to represent the firm jointly;

—The business activity (if authorized to engage in foreign business transactions this is entered in the register, if it requires special permission or registration);

—Counsel (if the participants have decided to retain same, for instance in relation to obtaining permission for foreign business activities);

—Matters required by special regulations (e.g. the commercial code, etc.).

An application for entry in the enterprise register must be submitted by a participant designated by agreement and must be accompanied by a notarized signature. In addition to the above requirements in the case of an enterprise with foreign capital participation the register must also include the names and headquarters of the participants, and the amount of their contributions; for joint ventures a copy of the joint venture agreement must accompany the application, and if necessary the permits issued by pertinent state administrative offices.

Applications for business associations must be signed personally by all participants in the presence of the registry court, or accompanied by a notarized power of attorney for the signatories present or for an enterprise participant.

Applications for limited partnership registration must also specify whether the participant is providing his own guarantees or the support is coming from a limited partner and the amount contributed by each.

Applications for registration of limited liability partnerships [SRO] must also specify the total capital of the corporation and the contributions of each participant.

Applications for registration of working economic associations operating under guarantees from legal entities must be accompanied by the guarantee of that legal entity.

The registration court will inform the Federal Ministry of Finance and the Czechoslovak State Bank of additions and deletions of enterprises with foreign capital participation from the registry.

2. Managing Enterprises With Foreign Capital Participation

The above mentioned economic legal enterprise forms enjoy complete economic independence, both in their koruna and their foreign currency operations. This freedom is characterized by the following:

—The enterprise is responsible for its actions up to the value of its property should its obligations and other legal responsibilities be terminated;

—The enterprise is not responsible for the obligations of other legal entities or for those of the state; on the other hand neither the state nor any other legal entity can serve as guarantor for the obligations of an enterprise with foreign capital participation;

—The state plan for economic and social development cannot impose any obligations on enterprises;

—The enterprise, after paying taxes to the state, can use the koruna and foreign currency resources it has generated in any way it deems fit;

—The enterprise is bound by the 30 percent supply responsibility to the state on profits in hard currencies, as provided for in foreign currency regulations, Law No. 162/1989, Sb.. In contrast to the original law, No. 173/1988, Sb. the new law extends this provision to enterprises with foreign capital participation (Section 15);

—The enterprise pays all its bills and finances all its needs from the output of its business activities;

—The enterprise can obtain a loan denominated in foreign currency from a Czechoslovak monetary institution; it can obtain such a loan from a foreign bank only with permission of the Czechoslovak State Bank [SBCS];

—An enterprise can maintain its accounts in foreign currency at a Czechoslovak financial institution, and at a foreign bank with the consent of the SBCS;

—The enterprise can cover temporary monetary shortfalls only with bank loans.

Documentation covering all these characteristics of an enterprise with foreign capital participation should be included for the use of the founding partners in the technical and economic analysis developed before establishing the enterprise.

It is interesting that one reason foreign capital is interested in cooperative arrangements with our firms is the relatively high level of qualification of our work force, their ability frequently to find unique solutions to problems, their ability for creative innovation and, in relation to West European workers, lower salary levels.

There are long term reasons for this in the production and cultural traditions of our industrial sectors. Also significant is the interest and ability of our workers to master even complex foreign production techniques and develop them further. Foreign entrepreneurs are also interested in our geographic location, communication network, and great number of accessible historical sites and natural beauty.

A limiting factor in the successful cooperation between Czechoslovak and Western firms is, actually, the very outcome of that partnership—the profits that it generates and, in the case of an enterprise with foreign capital participation, the potential to transfer this profit abroad in an economically attractive form.

2.1 Financial Management

The basic source of financial property and operations of such an enterprise are the basic assets, i.e. the contributions made by the participants when founding the enterprise. These contributions can be in the form of money (Czechoslovak or hard currency) or in the form of property (machinery, buildings, etc.). The basic assets of an enterprise do not change, they are stable. All participants have an interest in maximizing the value of the capital they contribute. Further expansion of enterprise activities requires the agreement of all participants in the joint venture, an increase in the basic assets and an accompanying change in the enterprise statutes (constitution).

The basic assets can be increased by issuing new stock, additional participant contributions, increased allocations to the reserve fund or any other special purpose fund (the development fund) funded with enterprise profits. Given the overall character of enterprises with foreign capital participation the critical factor in their economic growth is the financial aspects of their management, profit formation, return on basic assets, and liquidity.

The tax responsibilities of an enterprise are given by the tax laws of the country where it is located. Substitute transfer payments that are less than the legal norm cannot be assessed. Enterprises with foreign capital participation are subject to the tax on revenues, which are based on enterprise profits. This is based on Law No. 108/1990, Sb. which amended and supplemented Law No. 157/1989, Sb. concerning income taxes. Enterprises with foreign capital participation in excess of 30 percent of basic assets as of 1 January 1991 are subject to a 40 percent income tax rate on profits in excess of Kcs 200,000. This rate is comparable to foreign tax rates (as long as the tax base does not exceed 200,000 korunas [Kcs] only a 20 percent rate applies). If foreign participation is less than 30 percent of basic assets the tax rates are the same as those applying to Czechoslovak enterprises with no foreign participation.

The corporate income tax law allows the state to adjust the level of income tax paid by enterprises with foreign capital participation up to and including being free of income tax obligations for the first two years after being established.

In addition to income taxes enterprises pay social security taxes equal to 50 percent of their wages-payable resources. This transfer payment represents a valuation of labor costs relative to embodied labor (valuation of equipment). This transfer payment represents the enterprise contribution to the costs associated with assuring labor force replacement. The income tax base is reduced by the amount of this social security contribution. Just as with income taxes enterprises can request exemption from or a reduction in the rate of this transfer payment for the first two years of operations. If the enterprise

provides services (such as a travel agency) the social security tax rate is 20 percent of the established base.

An enterprise with foreign capital participation also pays a sales tax. This tax is based on the sales price designated as taxable revenue. The rate is set in tax tables with relatively wide scope. Basic assets are not taxed. Revenues from the sale of goods abroad are not subject to this tax under Law No. 107/1990, Sb. which amended and supplemented Law No. 73/1952, concerning sales taxes.

The general tax rate for dividends of Czechoslovak and foreign participants in joint ventures is 25 percent in Czechoslovakia. Incomes received in Czechoslovak by a foreign participant who is a citizen of a country with which Czechoslovak has an agreement limiting double taxation, do not have to pay taxes only if the headquarters of the enterprise is located outside the territory of our country.

A Czechoslovak enterprise with foreign capital participation likewise operates with a system of funds. After being established it forms a reserve fund under Section 12 of law No. 112/1990 in an amount and way specified in its charter (constitution). The enterprise must add to this fund annually in an amount equal to at least five percent of its after tax profits, up to the amount specified in the charter. The reserve fund must be equal to at least ten percent of the basic assets of the enterprise. The enterprise must maintain part of the reserve fund in foreign currency.

The reserve fund is a basic financial reserve, an important internal resource of the firm. It can be used to cover losses, moderate fluctuations, and the risk associated with business activities. Foreign experiences show that the actual level of the reserve fund (the law specifies only a minimum) should correspond to the character, scope, and risk involved in the enterprise's activities. Foreign sources suggest that the reserve fund be maintained at a level equal to 20-25 percent of the basic assets of the enterprise.

In addition to the reserve fund an enterprise with foreign capital participation has the authority to set up additional facilitating funds. These include bonus funds, development funds, and others.

A bonus fund is funded by enterprise profits for the purpose of regulating wages-payable resources in conjunction with achieved economic performance. Allocations to this fund can be governed based on a standard or an absolute limit. It is used exclusively to provide extraordinary bonuses to enterprise employees.

Enterprises with foreign capital participation also have the authority to set up development funds. This fund serves as a place to accumulate after-tax profits. The reserve fund can serve the same purpose, however, by making contributions to it in excess of the prescribed minimum.

Overall it should be stated that it is not possible to draw on either the funds or the resources generated by an enterprise with foreign capital participation. The enterprise decides how to use these resources independently. For completeness it should be added that the means and procedure for allocating profits by enterprises of this economic legal form are specified in Section 13 of Law No. 112/1990, Sb. The enterprise can use retained profits for reinvestment or distribute them among the participants as dividends, after meeting tax obligations and making the required reserve fund allocation.

The Law on Enterprises With Foreign Capital Participation requires these firms to conduct annual audits of the year-end closing, using two auditors. This form of control is common in economically advanced countries and assures, at the request of the enterprise, that its work is evaluated impartially by selected experts. The auditors should not be employed by any state office.

The enterprise can choose its auditor independently. Examinations of the operations of the firm are conducted according to Federal Ministry of Finance Decree No. 63/1989, Sb.. One of the auditors can be a foreign individual provided that he or she is qualified in their home country as a commercial public auditor.

2.2. Foreign Currency Management

Foreign currency management issues for enterprises with foreign capital participation are codified in Law No. 109/1990, Sb. which revised and updated Law No. 162/1989, Sb.

Codification is also expected, however, of associated lower legal standards in conjunction with the reformulation of and new changes to basic economic laws necessary for the transition to a market economy.

The foreign currency accounts of joint ventures are not a part of the foreign currency accounts of the state. An enterprise obtains foreign currency resources from its own activities (profits) or as foreign currency loans and can use them as it sees fit. It can, under the new law, maintain foreign currency accounts at a Czechoslovak financial institution or at a foreign bank with the approval of the SBCS. In terms of foreign currency loans an enterprise can obtain such loans from a Czechoslovak foreign currency institution and from foreign institutions with the approval of the SBCS. Conversions between Czechoslovak currency and the foreign currency are made at the current exchange rates announced by the SBCS.

Currently in the CSFR the major active bank is the Czechoslovak State Bank (as the flagship bank, the issuing bank), the Czechoslovak Commercial Bank, The Business Bank (Zivnostenska banka), the Investment Bank, and the Commerce Bank. These banks have very widespread loan operations, with loans issued after researching the liquidity and capital conditions of the applicant, and evaluating whether the applicant has the economic base to make optimal use of the loan and, of

course, the resources to repay it. Loan collateral consists of the basic assets and funds of the enterprise, individuals, and signed, notarized business or production contracts.

Czechoslovak banks usually issue operating loans, investment loans, and foreign currency loans. An operating loan is issued for working capital, short term cash needs, and similar purposes. Investment loans are used to obtain capital assets as well as to bridge temporary divergences between the need for resources and their availability. Foreign currency loans are issued to support imports or exports. The interest rates on foreign currency loans is tied to the interest rates and conditions on international financial markets and also depend on the currency in question and repayment period for the loan.

In terms of interest rates charged by Czechoslovak banks, the Commercial Bank recently charged 4 to 6 percent for loans repayable within one year, 5 to 7 percent for loans with repayment periods of one to four years, and 8 to 8.5 percent on loans repayable in four to seven years. The center has allowed the Commercial Bank to extend this seven year repayment period to 10 years.

Loan conditions include:

—Evidence of establishment (charter, constitution, permit);

—Demonstration of ability to repay and ability to use the loan effectively;

—Collateral (described above).

2.3. Socioeconomic Information

This information includes data on resource movement by use (credits) and source (debits) and data on the economic performance of the enterprise. They serve for calculation and budgetary purposes and also to monitor the performance of enterprises with foreign capital participation. They are especially important for calculation and collection of income tax. In this area, in fact, the basis of payment obligations is the final profit shown in the accounting documentation.

The status and changes in capital stock, inventories, accounts receivable, debts, and funds, as well as costs and revenues from enterprise activities are maintained in accounts which serve as the basis for accounting review. Accounts are kept in Czechoslovak currency and use the uniform chart of accounts issued by the Federal Ministry of Finance. Only the Federal Ministry of Finance can grant exceptions from these regulations for joint ventures.

Enterprises with foreign capital participation must also keep records of socioeconomic information. These records are used to provide authorized state offices and enterprise management with necessary statistical data and to prepare periodic statistical reports (Income Statement, Uc 1A-12, Balance Sheet, Uc 2A-02, Funds Summary, Uc 3A-04, Funds Summary Uc 4A-02, and Selected Indicators, Uc 5A-01).

Source of Information

Data on the status of Czechoslovak export and import contracts and their fulfillment is gathered by the Mechanized Foreign Trade Center from two statistical documents received from enterprises:

—Monthly report on export and import contracts, ZO V2-12.

—Monthly report of export and import contract fulfillment, ZO V3-12.

Federal Price Office Guideline 29 ZO establishes the importance of these reports. Report ZO V3-12 became mandatory on 1 January 1990, and report ZO V2-12 as of 1 February 1990.

Both reports include itemized export and import (including reexport) deliveries, the fee charged if any, as the labor and output associated with each. The report code specifies both the type of report and whether the data in the report is complete from the beginning of the year or incremental.

Deliveries included in the report are classified as follows:

—Industrial sectors and goods

—Agricultural and forest products

—Manufacturing related labor

—Construction products

—Products covered by Decree No. 114/1972, Sb. (1981 version plus amendments)

—Priority capital projects

Both reports are submitted by:

—Foreign trade enterprises

—Organizations authorized by the Federal Ministry of Foreign Trade [FMZO] to engage in foreign trade activities

—Organizations that export or import as part of production cooperation agreements.

The reporting enterprises submit both reports on either magnetic tape or diskette to the computer center of the Mechanized Foreign Trade Center [MUZO], Jindrisska 24, 112 84 Prague 1:

—Monthly in the case of foreign trade organizations including those involved with areas with nonmarket economies;

—Quarterly in the case of organizations with FMZO permission to engage in foreign trade activities; in some instances these organizations will submit monthly reports;

Report ZO V3-12 must be submitted to the MUZO by the sixth working day after the close of the period in question, and is available by the 20th day after the end of the period.

The reports contain the following information:

—ZO V2-12 reports on export and import contract fulfillment and the work performed on each related to the foreign contractor. Export contracts are listed based on the delivery dates in the agreement. Import contract listings provide this information, as well as the year and month when payment is due under the agreement.

—ZO V3-12 reports on actual export and import deliveries and related work directly involving the foreign contractor.

Both reports also contain the following information:

—Weight (size, amount);

—Value in domestic currency, at the business parity price, and in the "all charges prepaid to the border" price;

—A code used to determine the economic purpose of the imported goods (capital investment, production or nonproduction consumption, commercial inventories).

—The trading country (to which the item was sold or from which purchased); this is the country with which the contract was signed, under which this particular delivery was ordered and executed. If there is no signed contract the report lists the country where the foreign partner has its headquarters or conducts its business.

Report ZO V3-12 also lists the country of origin of imports or the destination country of exports, if either is different from the trading country. The country of origin identifies the country in which the goods were manufactured, in which they became the object of an agreement with the foreign partner. The destination country is the country of last known destination for the goods.

The contracting process and actual shipping are two different things. Put simply, many products with long production cycles (mostly machines) must be contracted for prior to the current year. Contracts for other types of goods depend on the type of good. Over time both values converge on an annual basis.

Reports ZO V2-12 and ZO V3-12 are submitted by OZO and by enterprises authorized by the FMZO to participate in foreign trade. However, private individuals are now beginning to engage in foreign trade and while the volume of this trade is now insignificant it will certainly continue to grow. The issue of reporting on their activities will be part of the modification of the laws covering private entrepreneurs (Law No. 105/1190, Sb.).

Regulations stipulate that these reports contain the weight (amount) specified in the contract with the foreign partner. Contracts signed by Czechoslovak firms follow international conventions in these listings. The weight and amount figures therefore differ depending on the type of good, and its region or country of origin. Therefore, it is not always possible in aggregate reports to list aggregate weight or amounts, because of differences in units of measure.

2.4. Transferring Resources Abroad

A foreign participant is authorized to transfer abroad the proceeds from his share in enterprise capital only if the enterprise is liquidated, fails, or if he reduces his capital share in the enterprise. If he reduces his share of enterprise capital he may do so up to the percentage of the original basic assets, and in the currency of that original share.

A foreign participant can transfer abroad his share of profits from foreign currency resources. If the enterprise is liquidated, fails, or the participant reduces his share in the enterprise, he may transfer his share of enterprise property in excess of his share of the basic assets. This is how the law reads.

A foreign participant can transfer his foreign currency assets abroad without a special foreign currency permit but the transfer is subject to the enterprise having sufficient foreign currency resources. Only a transfer after liquidation can be made (if there is property to support it) up to an amount equal to what the foreign participant contributed to the enterprise, in the same currency as the original contribution. Foreign participants can transfer shares of profits (dividends) abroad only if the enterprise has enough foreign currency resources to support the transfer. None of the above transfers can be made in korunas.

Salaries, social security, and pension contributions for employees with permanent residence abroad can be transferred provided the enterprise has sufficient foreign currency resources. Foreign employees in these cases are not covered by Czechoslovak pension insurance.

Potential foreign participants in joint ventures are all very interested in the issue of protection against measures that might infringe on their ownership rights. This involves protecting their property against expropriation, restrictions on ownership rights, or nationalization. Property can be expropriated in our country only if an objective cannot be achieved by other means or by restricting ownership rights. Such actions can be taken for the public good (creating protective, hygienic zones, etc.). Compensation for expropriation is paid only according to special regulations (Law No. 50/1976, Sb.—a construction law; other laws include a law covering air

traffic, road traffic, and mines). Basically, however, potential foreign participants are not satisfied with these guarantees, even though compensation is:

—Commensurate with the actual value of the property (time value);

—Made immediately;

—Made in hard currency transferrable abroad without any requirement for the enterprise to have equivalent assets of its own.

2.5. Liquidating an Enterprise With Foreign Capital Participation

Liquidation is invoked to disband an enterprise with foreign capital participation. The purpose of liquidation is to straighten out the property relationships of the disbanding enterprise. Authority is from Law No. 99/1963, Sb., civil code, with all applicable revisions and amendments. During liquidation proceedings the enterprise must add the disclaimer "in liquidation" to its name. Likewise the enterprise must submit a memorandum of liquidation and the name of the liquidator for inclusion in its entry in the enterprise register. This memorandum disbands all enterprise offices, allowing only the liquidator to speak for the firm. The enterprise closes its books as of the day of liquidation and submits these records to the liquidator and other pertinent offices.

During liquidation, the liquidator must:

—Deposit monetary resources in a single domestic monetary institution;

—Wrap up day to day enterprise affairs;

—Discontinue tax and fee payments;

—Put obligations and claims in order;

—Monetize enterprise property as expeditiously as possible, or make other arrangements with the agreement of the participants;

—Submit to the participants quarterly and annual reports on the progress of the liquidation (including quarterly and annual accounting information);

—When the liquidation is completed a final accounting report and report on the course of the liquidation is prepared and submitted to the participants;

—After the participants have approved the final report and all tax obligations have been met, the liquidator distributes the residual amounts in consultation with the participants (for example he can pay off stockholders, in the case of corporations, who have turned in their shares).

—Takes care of storing written materials and accounting documents, including stocks in the case of a corporation;

—Announces the completion of liquidation to the court and moves to delete the enterprise from the enterprise register.

There is currently no "Bankruptcy Code" in Czechoslovakia to support such proceedings.

Liquidating an enterprise with foreign capital participation requires the following (this also applies, for example, to the liquidation of corporations):

—A majority resolution to disband the association based on the charter (constitution), or

—Achievement of the objective of the association if this is specified in the charter, or when the time period for which the association was formed expires;

—Liquidation of an association the submission of which is covered by special regulations (Law No. 99/1963, Sb.—civil code, with all applicable revisions and amendments).

3. Areas of Special Importance for the Successful Operation of Enterprises With Foreign Capital Participation

The fundamental issues related to the operations of enterprises with foreign capital participation are prices, capital asset depreciation, labor relations issues, duties and customs administration, ways to stimulate export products, and forms of joint ventures available in the CSFR that are not now widely used. When analyzing this area these topics must receive greater attention.

3.1. Price Formation

Basically, the prices for which a joint venture sells its products domestically must conform to current Czechoslovak regulations, unless the joint venture buys or sells goods for which prices are formed contractually. This form of pricing is applied to imported products or products designated for export and also to products whose prices are determined by agreement between the seller and the buyer. When prices are formed in this way the Czechoslovak enterprise is guided by competitive international prices. There will be general price deregulation as of 1 January 1991.

The introduction of internal koruna convertibility on 1 January 1991 is an important step in the implementation of market relationships. This decision will allow enterprises to purchase foreign currency at Czechoslovak banks with korunas, up to the amount of their profits. At the same time foreign currency standards will be eliminated.

The regulations governing contractual price formation were established in Decree No. 35, issued 1 February 1990 by the Federal Price Office [FCU] and the Ministries of Finance, Prices and Wages of the Czech and Slovak Republics. Under Section 104 of Law No. 194/1988, Sb. all three ministries have codified the procedures to be followed by organizations and individuals

acting as buyers or sellers when implementing and expanding the contractual pricing of products, outputs, labor, and services, and contract incentives and penalties. The supplement to the above decree contains a detailed list of the products and outputs to which contractual pricing applies.

The authority for this codification effort is as follows:

—For the FCU, Section 104 of Law No. 194/1988, Sb., concerning the authority of central federal offices of state administration;

—For the CR [Czech Republic] MFCM, Section 6 of Czech National Council Law No. 134/1973, Sb., concerning the authority of Czech Republic offices in the area of prices (full text in No. 23/1989, Sb.);

—For the SR [Slovak Republic] MFCM, Section 2, Paragraph 2, letter e) of Slovak National Council Law No. 135/1975, Sb., concerning the authority of Slovak Republic offices in the area of prices (full text in No. 27/1989, Sb.).

The purpose of contractual prices is to:

—Offer entrepreneurial incentives in the interest of better satisfying social needs;

—Create more flexible and closer ties between prices and the social utility of production, in particular the fuller inclusion of all the costs associated with certain products in their prices and to achieve better correspondence between supply and demand in all price ranges.

Contractual prices, negotiated between a supplier and a customer apply to the formation and changing of wholesale, procurement, taxable wholesale, commercial, and retail prices. Prices that include sales taxes and duties include both these components as specified in the appropriate tax tables

In cases when a price other than those negotiated must be used, the alternative price is derived from the contractual price by adding or subtracting appropriate components of the alternative price. This approach does not apply, however, to contractual procurement prices which are applicable when noted next to a particular component in the above mentioned list.

Contract incentives and penalties are applicable to procurement, wholesale and commercial prices established by a pricing office (FCU, MFCM CR). They are negotiated separately, noted separately on invoices, and are not part of the base for calculating prices that include sales tax. If no agreement is reached regarding incentives or penalties (or about their amount), deliveries are made at the agreed upon price.

Contractual prices can be applied to:

—Products and services, when a contractual price can help create a supply-demand equilibrium;

—Groups of products and services for which a global and structural equilibrium of supply and demand has existed for some time, or for which there exists a truly competitive environment, or if a customer has an opportunity to meet his needs with economically more advantageous imports or substitutable products and services.

Regulations established for specific list components (in the decree supplement) serve as guidelines for contractual prices. This includes in particular:

—Using maximum, minimum, or general prices (these cases are noted in the list);

—The relationship of domestic prices to foreign prices of imports or exports;

—Conditions of the agreement concerning the share of the profits generated by the customer;

—The maximum profit percentage; (upon customer request the supplier must submit preliminary calculations, supported by materials costs and wages in an agreed upon format).

3.2. Depreciation

The way that we depreciate capital assets based on their obsolescence and wear and tear (codified in FMF [Federal Finance Ministry] Decree No. 94/1980, Sb. concerning capital asset depreciation) is a significant obstacle to equipping joint ventures (but not only joint ventures) with modern equipment. Depreciation is performed using annual rates (see the supplement to the cited decree), continually until the acquisition cost has been reached. The time period for depreciation and the depreciation rate depends on the classification of the particular capital asset and fluctuates from 1-20 percent. For instance, depreciation rates for machinery and equipment in most cases fall in a range of 5-12 percent (the 12 percent rate is used even in instances when the capital asset clarification is not included in the above mentioned supplement to FMF decree No. 94/1980, Sb.).

As modern equipment and techniques develop the conflict increases between an acceleration in obsolescence of a particular piece of equipment and a basically constant rate of wear and tear (particularly for modern computer equipment). This process clearly has an impact on the declining prices of ever more modern, mass produced, miniaturized and powerful equipment. This is related to the overall equipment and technology life cycle in our firms, and therefore to the problem of shortening depreciation schedules and their related rates.

Labor Relations

The legal standing of employees of enterprises with foreign capital participation is codified by Law No. 188/1988, Sb., revised and supplemented by the Labor Code (Law No. 65/1965, Sb., revised by Law No. 153/1969, Sb.; Law No. 20/1975, Sb., Law No. 72/1982, Sb.,

Law No. 111/1984, Sb., Law No. 22/1985, Sb., Law No. 52/1987, Sb., Law No. 98/1987, Sb.). An exception is when a joint venture employs a person abroad and that employee does not have his residence in the CSFR (usually the case with foreign employees). The Czechoslovak Labor Code can be applied in this case only on the basis of a codified international civil law.

The provisions of amended Law No. 188/1988, Sb. are important for enterprises with foreign capital participation. This law authorizes the Federal Government to issue, as needed, ordinances relating to joint venture employees. This ordinance can be used to codify hiring, job changing, and job termination regulations, as well as regulations concerning working hours, work breaks, compensation fundamentals, paid vacation standards, etc. The final arbiter of regulations in this area is the Federal Ministry of Labor and Social Affairs, including rulings that may deviate from existing Czechoslovak regulations, which may be updated in conjunction with the newly issued labor code. This is related to the codification of conditions for hiring foreigners for jobs in the CSFR (the problem of issuing a work permit under Law No. 68/1965, Sb., concerning foreigners living on Czechoslovak territory and its implementation decree, No. 69/1965, Sb. administered by the Federal Ministry of the Interior).

3.4. Customs Management

Law No. 44/1974, Sb. (customs law) as revised in Law No. 117/1983, Sb., along with implementation regulations (FMZO Decree No.. 51/1986, Sb.) codify Czechoslovak regulations concerning duties, the conduct of customs inspections, and customs administration. Duty is assessed according to the appropriate rate tables. Duty is applicable to so-called commercial goods imported to Czechoslovakia. Exported goods and goods in transit, however, are also subject to customs inspections. This law is concerned with goods that are the subject of foreign trade activities. Czechoslovak regulations for overall customs administration must respect the responsibilities that we undertook as a nation with our membership in the General Agreement on Tariffs and Trade (GATT).

Customs administration procedures:

—Classification of commercial goods for purpose of assessing duty (based on the Uniform System for Marking and Coding Goods, implemented on 1 January 1989);

—Establishment of the so-called dutiable value of the goods;

—Assessment of duty; part of this process is customs inspection which may uncover a violation of regulations concerning the movement of foreign goods, an attempt to reduce duty, impeding customs inspection, etc. (these and other violations are punishable by fines);

—Release of goods into free circulation;

—Payment of duty (the customs office may defer payment);

—The duty is always paid by the firm to which the customs office releases the goods. The importing or exporting enterprise can allow a shipper to represent it at the duty negotiations.

Duty rates are differentiated in our country, as they are elsewhere in the world. The use of most favorable rates is usually tied to the multilateral success of the partner countries. Otherwise, the most favorable duty rate is usually dependent on a certificate of origin for the goods.

Czechoslovak customs regulations allow, when goods are imported, for a so-called goods take-back, or the release of goods before the completion of customs procedures and assessment of duty. This regulation is used to implement the duty free loan of a specific good (usually equipment) by a foreign firm to a Czechoslovak firm with a so-called customs record, and the specification of a time limit for the duty free loan).

In Czechoslovakia the Central Customs Administration negotiates exemptions from duty payments. Basically, all goods contributed to the basic assets of an enterprise with foreign capital participation are duty free. Business samples, etc. are also duty free.

Individual exemptions from duty payments applied on any wider scale are violations of Czechoslovak obligations under GATT. It can be assumed, however, that as integration trends in Europe continue customs regulations will also be liberalized. Current practices and goals of a common approach by the EEC countries, particularly in the customs area, provide many examples of how this might be accomplished.

3.5. Enterprise Policy and Incentives for Efficient Export Products

In Czechoslovak foreign economic relations newly formed enterprises with foreign capital participation are paying special attention to:

—Developing the image and goodwill of the firm;

—Setting up public relations departments;

—Improving export incentive programs.

Czechoslovak exporters can form goodwill and a positive image only by delivering high quality products and follow-up service and through a carefully chosen, well thought out approach towards critical foreign customers. The goal must be to assure long term, stable, mutual business relationships based on high quality, reliability, a seriousness business attitude, and overall communications, including meeting established deadlines. The good name of Czechoslovak enterprises (goodwill) will not develop immediately or automatically. The process is analogous to the formation of a business tradition. The

same is true for the most part of image, i.e. certain positive opinions held by business partners about the products, services, and trademarks of a supplier. Here as well success can be hard in coming and require a lot of effort.

One of the ways to support exports is to advertise the firm. The key to success here is for the external advertising program to be based on realistic assumptions, on an objectively high quality of exported products and available services. When negotiating with foreign partners it is essential to emphasize the absolute unity of purpose at all levels of enterprise management.

The improvement of joint export support programs is important especially when a manufacturer does not do the exporting itself, leaving this activity to a domestic partner (this can be a OZO, but in the future will clearly be part of the operations of enterprises with foreign capital participation, or close relationships between an individual manufacturer and such an exporter, in the form of a corporation, etc.).

3.6. Infrequently-Used Legal Types of Joint Ventures

3.6.1. The Concern

In economically advanced countries corporations are frequently parts of larger economic units, called concerns. Concerns here usually appear in several forms, for instance:

—A concern based on capital participation, specifically capital participation by individual concern enterprises in a joint venture. The concern enterprises are at the same time independent legal entities accountable for their own efficiency and liquidity. The enterprise with the most capital uses its capital participation (stock, share, or SRO) to control the other concern enterprises. This accounts for the resultant vertical organization principle in the management of such a concern.

—Contractual concern. In this type of concern all the enterprises are equal. Concern leadership is either assigned to one of the member firms (contractually), or takes the form of a joint managerial entity, usually encompassing the entire association.

Concerns are characterized by:

—Uniform management of the concern as a unit;

—Retention of the legal identities of the concern members.

The managerial structure of concerns in economically advanced countries is formed as follows:

—Product criteria (in addition to the production of specific products). This applies to firms with diversified output;

—Similar knowledge and ability criteria (enterprise management, research, production, sales, etc.). This involves co-called functional management, and relates mainly to the management of specialized firms;

—A functional staff management system is often used in smaller enterprise groupings. The basis of this organizational form is the functional subordination of certain activities to a central staff that replaces functional administrative services over the long term; the disadvantage of this system is the relative rigidity of its internal links;

—A line staff management system is used rather at the level of individual concern enterprises. Auxiliary components of the management staff are subordinated to the enterprise management.

In economically advanced countries there are also highly decentralized management systems in which branch facilities are legally independent units with accountability for their performance, for the implementation of state of the art equipment, for innovativeness and flexibility.

The solution to this issue has been the formation of multidivisional organizational structures, especially at larger concerns. These structures are based on relatively small but sufficiently independent decentralized organizational units (divisions) formed either along product or territorial principles. It is just this specialization that allows for the formation of divisions as relatively autonomous units, providing all necessities for implementing its part of the production program of the concern.

A division has a high degree of decisionmaking autonomy in its own operations (inventories, research, etc.). It keeps its own accounts and balance sheet, an important part of which is profit and return on assets. Division autonomy gradually increases and the leadership of the entire concern supports the use of economic tools to strengthen relations between concern divisions.

If we summarize the experiences of the developed countries in their choice of organizational and managerial structures for large concerns we would have to state that the trend is towards decentralization in the form of small and medium sized entities with legal identities that are accountable for their own performance and are characterized by high levels of innovation, production, and marketing flexibility, and a personal relationship with their customers.

In addition to concerns other types of enterprises exist in the economically developed countries.

3.6.2. Trusts

Economic units combined in a trust lose their economic and very often their legal identity in economically advanced countries. They are managed from a single center. The main reason for forming trusts is usually to control a market. This is in conflict with the principle of free competition, which led in the United States even before the Second World War to the passage of so-called

antitrust laws. After the Second World War some countries, such as the FRG, eliminated trusts altogether.

3.3.6. Interest Partnerships

This is a union of legally independent entities which, based on a contract, and strictly in their common interest, give up their economic independence. The main objective here is to assure profit growth while minimizing costs. This is mainly a so-called inside partnership, in that it does not speak in its name in public.

3.6.4 Civil Partnership

The provisions of the civil code apply to these firms. Such a firm may result from an agreement between legal or actual-individuals to pursue a joint entrepreneurial goal (an interest association). The agreement does not have to be in writing, no new firm is established, the partnership has no legal standing and is not entered in the enterprise register.

3.6.5. Working Partnership

These are formed in instances when one supplier (such as in construction) is not able for financial or capacity reasons to handle a costly investment project. A working partnership can also arise to spread out an unacceptable level of entrepreneurial risk among multiple legal entities. Legal relations come about between a working partnership and an investor, not between an investor and the members of a working partnership.

3.6.6. Consortium

This is a temporary association to undertake large scale (usually business) transactions that exceed the financial resources of a single entrepreneur and involve more risk than one person or firm can undertake. The risk and the necessary capital is divided among the consortium members. A consortium comes about based on an agreement among its members. The agreement must state the purpose of the consortium, how long it will exist, an agreed upon interest rate, etc. An example is a banking consortium. After the entrepreneurial purpose has been fulfilled an accounting of its activities must be prepared and distributed to the members. Consortiums are not entered in the enterprise register.

3.6.7. Cartels

These are horizontal, contractual unions of enterprises, each member of which retains its legal and economic independence. The main purpose for forming a cartel is to influence a market. For this reason the FRG passed in 1980 an anticartel law (law against limiting competition). Limiting competition is the purpose of the so-called market cartels which appear as syndicates or territorial cartels, as price or production cartels. On the other hand rationalization, export, structural, conditional, and other cartels do not significantly affect competition.

3.6.8. Holding Companies

The basis of a managerial holding in large concerns is the achievement of independence by individual sectors of the concern (the parent firm of the concern) as affiliated companies with legal identity. These affiliates then coordinate the activity of other legally independent firms in the same business (commercial activity, turnkey capital projects, etc.). This allows them to achieve advantageous strategic management of small and medium sized production and marketing entities in the form of branch holdings. The parent firm of the concern meanwhile gives up its own production and sales operations to concentrate on the strategic management of the holding company, the management of the affiliates in the form of its decisive capital participation, and by providing occasional services to the branch firms.

This implies that the legal identities of the participating enterprises in a holding company are maintained but that their economic freedom is restricted. A holding is actually a special type of concern that can be organized as basically a control association, or as an umbrella company. This though takes advantage of the fact that the holding financially controls individual subordinate enterprises, directing their activities (strategic and managerial) to the advantage of all firms in the holding company. The main functions of a holding company in relation to its branch companies are therefore as an issuer of stock, provider of financial advantages, as a source of information, data processing, etc.

3.6.9. Contract Partnership

At the present time in economically advanced countries so-called contract partnerships are appearing as a variation of the joint venture. The contract is used to establish the size and form of capital contribution of the participants (capital, property, etc). The contract further defines the responsibilities of the participants and the forms and principles for their cooperation. No joint stock capital is, however, formed, nor is there a common management. Contractual partnerships have in common that they apportion profits and also risks among the participating partners.

3.6.10. Silent Partnership

The basic principle in the establishment of a silent partnership is that a so-called silent partner participates through a contractual property contribution to the entrepreneurial activities of another entity (entrepreneur). For this contribution of property the silent partner draws a contractually established percentage of the profits and bears an equivalent percentage responsibility for losses. The silent partner, however, participates in losses only to the amount of his contribution or to the amount of a debt. Paid out profits (always at the end of the year as defined in the contract) are not returnable, even if the entrepreneur incurs losses later on. On the other hand the contribution of the silent partner is not increased by any undistributed profits.

The entrepreneur doing business under the name of the firm becomes the owner of the contribution of the silent partner. If the name of the silent partner is part of the name of the firm in any way the silent partner automatically becomes responsible to third parties personally, jointly, and the same as the entrepreneur.

Silent partnerships are not entered in the enterprise register. Silent partnerships dissolve:

—When the firm declares bankruptcy;

—By mutual agreement of the partners;

—When the time period for which the partnership was formed expires (if the partners continue operations the silent partnership is considered established for an indeterminate length of time;

—When a partner's participation ends (an accounting of property must be prepared based on the status of property held by the firm;

—The firm's activities conclude due to the legal incompetence of the entrepreneur.

To jointly engage in business activity private persons can form a business partnership in which legal entities as well can be partners. To establish a business partnership a written contract must be signed by all the partners. The contract must specify:

—The business name of the firm, which must make clear the type of partnership and its headquarters;

—The names (firms) and addresses (headquarters) of all the partners;

—The mutual legal relations among the partners;

—The scope of responsibility of the partners for partnership obligations to third parties;

—Means for dissolving the partnership;

—Legal considerations as defined by law for the specific type of partnership.

A partnership as a legal entity must within 30 days from signing the contract submit a proposal for entry in the enterprise register. Within this same time period the partners must guarantee the obligations undertaken in their name jointly and equally.

A business partnership may be established by someone with power of attorney—a lawyer who is authorized to act on all matters related to the firm. He must not be authorized only to commit or sell assets of the firm.

A business partnership dissolves when:

—It is declared bankrupt;

—All participants decide to dissolve it;

—The time period expires for which the partnership was founded (as long as the partners do not continue operations after this expiration date);

—In cases specifically provided for by law.

3.6.11. Public Business Partnership

A public business partnership is established when at least two individuals sign a public contract to conduct business under a joint name. Their participation does not limit the extent of their material contributions. Based on these documents the partnership is entered in the enterprise register. Partnership property consists of monetary as well as property contributed by the partners. A partner, however, is not obligated to increase his property contribution above the value established in the public contract, even if all other partners decide to do so.

Partners are responsible for the obligations of the partnership to the extent of all their property. Even partners who have entered the partnership at a later date are responsible for partnership obligations undertaken earlier. Public business activity is terminated if:

—One of the partners dies (unless the contract stipulates explicitly that the heirs of the deceased should continue operations);

—One of the partners renounces the contract even if it was originally signed for an indeterminate period.

3.6.12. Limited Liability Partnership

Limited liability partnerships are established by public contract to conduct business under a chosen business name. The contract limits the responsibility of a member in the sense of the responsibility to pay a predetermined property contribution. This type of partnership may have a single founder. It is required to append to the name of the firm at least the abbreviation "SRO." The partners are responsible for partnership obligations only to the extent of the partnership property, which is formed by partner contributions (the contributions of each member do not have to be identical). The draft of the new Commercial Code, however, suggests minimal capital for a limited liability partnership of Kcs500,000 and the lowest acceptable individual contribution at Kcs20,000.

The contract founding a SRO must contain:

—The business name and headquarters of the SRO;

—It's business activity;

—The amount of basic property;

—The amount contributed by each partner;

—The responsibilities and rights of the partners (including as a result of criminal activity);

—Means for terminating participation in the SRO and the consequences;

—Means for dissolving the SRO partnership without legal representation;

—Means for increasing/decreasing the basic property.

One can become a SRO participant by signing the pertinent public contract (the original contract also applies to those joining the partnership later), or by transferring or inheriting a contribution (or part of a contribution). All such transactions must be notarized.

3.6.13. Limited Partnership

A limited partnership can be formed when at least two partners sign a contract to undertake business activities under a joint business name. The responsibility in this case, however, for at least one partner (or more) is unlimited (the personally guaranteeing partner); the responsibilities of the other members (limited partners) is limited to the amount of their contributions. The personally guaranteeing partner or partners run the partnership. The limited partners are not authorized (or obligated) to run the partnership, but still are liable for all obligations entered into by the partnership before they became members.

3.6.14. Limited Stock Partnership

In this kind of limited partnership the capital of the limited partners is distributed as stock issued in their names. This kind of partnership is governed partially by regulations for limited partnerships and partially by those for limited stock partnerships. They are run by the personally guaranteeing partner and a review board elected by the stockholders. The establishing contract takes the form of a notarized record.

3.6.15. Working Business Partnership With Legal Guarantors

These are understood as partnerships the members of which are exclusively workers and retirees of specific legal entities which are responsible for their activities. Partnerships of this type do not require any material contributions from its members. It can however be founded only with the prior assumption of the guaranteeing obligation by the legal entities. This can be obtained, though, under different conditions. This type of partnership cannot be forbidden, however, from signing valid contracts during the course of its business with third parties.

The members in a working economic partnership are responsible for the obligations of the partnership to third parties only to the amount of their property contribution or their wages in the year in which the obligation in question was undertaken. The legal entity responsible for the partnership is responsible for obligations in excess of those of the partnership members.

3.6.16. Corporation

A corporation is based on the principle of associating parts of the free assets of legally independent organizations that have an interest in a joint undertaking. It is a legal entity set up for business activity. The abovementioned free resources become the basic stock capital after the company is established. For practical purposes the basic corporate capital comes from the sale of stock. In Law No.104/1990, Sb. concerning corporations, there are two circumstances that distinguish a corporation. First, the basic capital of a corporation must be divided into shares (stocks) with a predetermined value, and the owners of the stock (stockholders) are not personally responsible for company obligations. The company owns the monetary resources, property, and real estate paid in by the stockholders. It can acquire rights and obligations and is responsible to the amount of its capital for those obligations. The basic capital of a corporation cannot be less than Kcs100,000. The total monetary contributions made when the company is founded cannot be less than 30 percent of the basic capital, to a minimum of Kcs50,000.

A corporation also obtains property in the old-fashioned way, through its business activities. Moreover, when entered in the enterprise register, it acquires all the pertinent rights and is authorized within the context of its business to undertake obligations.

In economically advanced countries a number of enterprise associations arise as an expression of business concentration. Under the stock law, the following associated enterprises can be established:

—Enterprises with majority ownership (e.g. capital);

—Enterprises with majority participation (e.g. stock);

—Dependent and controlling enterprises;

—Mutually-owned enterprises (each must own at least 25 percent of its partner);

—The contracting parties in an enterprise contract.

4. Sample Business Contract

Commercial Contract Between (Supplier) and (Customer)

The purpose of the contract is: (preamble)

Article 1—This contract is for the performance of services (supplier) intended to fulfill the above defined purpose.

Article 2—(Supplier) promises the following: to provide business, economic, technical, organizational and legal experts for the purpose of conducting individual consultations. Work will begin on:... and completion is expected on... (Consultations will be available on oral or written demand).

Article 3—The price for the specified activity is, in compliance with Federal Price Office Decree No. 35/1990, Sb. concerning contract prices, set in the amount of (number of korunas) plus material supplements.

Article 4—The specific work to be performed is:

Article 5—The customer promises:

1) To provide the proper conditions for the effective performance of the agreed upon tasks by making available all pertinent documentation, technical and economic information, as well as the knowledge of in-house experts and the results of its own analyses and studies;

2) To compensate (supplier) for services rendered.

Article 6—(Supplier) is responsible for actual performance of the agreed upon services in the time specified by this contract, to make sure they are complete and meet all applicable legal regulations.

(Supplier) is not responsible for defects resulting from inadequacies in the documentation or information supplied by the customer.

Article 7—Both parties are required to request changes or termination of the obligations in this contract in the following instances:

—If new situations arise that make it unreasonable to demand fulfillment of the contract terms;

—If meeting the contract terms depends on the cooperation of another party and that party fails to meet its obligations on schedule.

Changes or termination of obligations must be announced in writing to the other party within seven days after the decision to cancel the contract. The customer is then responsible only for paying for services actually rendered.

Article 8—The general conditions of the services to be rendered, which are a supplement to this contract, are part of the contract.

Signed by supplier
Signed by customer

General Conditions of Negotiated Services

1. These conditions form an essential part of this contract. Conditions stipulated in the contract take precedence, however.

2. The customer agrees to pay the supplier the contract amount for the negotiated services.

3. Services are rendered with care and expert knowledge of the subject, techniques, time and scope of the activities. The supplier is liable up to the full price of the contract for improper performance of the services specified.

4. The contract price is negotiated to include costs that arise when preparing to deliver and actually delivering the services.

5. The supplier has the right and obligation to submit an invoice on the day the contract is fulfilled. If specified in the contract the supplier can issue invoices prior to completing the contract (progress payments).

If the supplier cannot determine the total price of the services during the terms of the contract (especially expenditures or prices that cannot be set until receipt of information from the customer), the right and obligation is to issue the invoice on the day the supplier receives the information necessary to generate the invoice.

6. The customer is responsible for paying the invoice for the negotiated services, unless specified otherwise in the contract, within 14 calendar days from the invoice date and must bear all costs incurred to transmit the invoice to the headquarters of the supplier. When the customer is late in paying an invoice or in sending the documentation necessary for issuing an invoice it must pay a penalty of 0.05 percent of the amount owed for each day of delay.

7. One party must notify the other in writing of intention to cancel the contract within the time specified in the contract. The supplier has the right to be compensated for costs incurred in preparations for or partial fulfillment of the contract.

8. The supplier cannot, without consent of the customer, make free use of the results of its work or of the documents obtained in connection with its work.

5. Overview of Legal Standards Governing the Establishment, Position, and Operations of Joint Ventures in the CSFR.

Joint ventures in the CSFR are governed by a number of legal standards most of which have already been or are now undergoing reformulation so that they can provide effective assistance in forming market economic conditions. Some of the laws, related for instance to private enterprise, joint ventures, and corporations, etc. had to be completely rewritten.

Enterprises with foreign capital participation operating on CSFR territory have different legal requirements, as do foreign firms with capital participation from our side.

Laws related to enterprises with foreign capital participation:

—Law No. 112/90, Sb., which amends and supplements Law No. 173/1988, Sb. concerning enterprises with foreign capital participation (valid as of 1 May 1990);

—Law No. 111/1990, Sb., concerning the state enterprise which amends Law No. 88/1988, Sb (valid as of 1 May 1990);

—Law No. 105/1990, Sb., concerning private enterprise by citizens (business law—valid as of 1 May 1990);

—Law No. 113/90, Sb., which amends and supplements Law No. 42/1980, Sb. concerning foreign economic ties, as specified in Law No. 102/1988, Sb. (valid as of 1 May 1990);

—Law No. 104/1990, Sb., concerning corporations (new version of Law No. 243/1949, Sb. (valid as of 1 July 1990);

—Law No. 103/1990, Sb., which amends and supplements the commercial code (Law No. 98/1988, Sb.);

—Law No. 101/1963, Sb., on legal relationships in international business;

—Law No. 78/1983, Sb., with recent changes and updates (civil code);

—Law No. 188/1988, Sb., which amends and updates the labor code;

—Law No. 109/1990, Sb., which amends and supplements the foreign currency law, No. 162/1988, Sb. (valid as of 1 May 1990);

—Law No. 145/1961, Sb., concerning income taxes as updated by subsequent regulations;

—Law No. 171/1988, Sb., concerning changes and additions to Law No. 161/1980, Sb. regarding transfers to the state budget;

--Law No. 118/1990, Sb., which amends and supplements Law No. 68/1979, Sb. concerning highway transportation and domestic forwarding agents (valid as of 1 May 1990);

—Law No. 108/1990, Sb., which amends and supplements Law No. 157/1989, Sb. concerning business income taxes (valid as of 1 January 1991);

—Law No. 107/1990, Sb., which amends and supplements Law No. 73/1952, Sb. concerning sales taxes;

—Law No. 110/1990, Sb., which amends and supplements Law No. 100/1988, Sb. concerning social security, and Law No. 54/1956, Sb., concerning employee medical insurance (valid as of 1 May 1990);

—Law No. 116/1990, Sb., concerning the leasing and subleasing of nonhousing space (valid as of 1 May 1990);

—Law No. 30/1963, Sb., concerning nationwide testing, with subsequent changes and additions (full text available in No. 84/1987, Sb.);

—Law No. 44/1974, Sb., as stated in Decree No. 18/1988, Sb. and Decree No. 224/1988, Sb. (customs law);

—Federal Price Office Decree No. 35/1990, Sb., dated 1 February 1990 and covering contractual prices;

—Federal Ministry of Foreign Trade Decree No. 60/1980, Sb., concerning the granting of permission for foreign trade activities;

—Decrees concerning wage and salary rates (sectoral);

—CSFR Government Ordinance No. 121/1990, Sb., concerning labor relations governing private enterprise by citizens.

Regarding foreign firms with Czechoslovak capital participation that are independent legal entities headquartered outside Czechoslovakia, the legal conditions of Czechoslovak participation are covered in the following regulations:

—Law No. 101/1963, Sb., concerning legal relationships in international business (international commercial code);

—Law No. 101/1963, Sb., concerning legal relationships in international business (international commercial code);

—Law No. 109/1990, Sb., which amends and supplements the foreign currency law, No. 162/1988, Sb. (valid as of 1 May 1990);

—Law No. 113/90, Sb., which amends and supplements Law No. 42/1980, Sb. concerning foreign economic ties, as specified in Law No. 102/1988, Sb. (valid as of 1 May 1990);

—FMZO and FMF Decree No. 143/1970, Sb. which implemented a foreign currency management law;

—FMZO and FMF Proceedings No. 4/1973, Order II, FMZO Report Concerning Management, Finance, and Accounting for business participation abroad and the Conduct and Accounting for Related Operations in Our Country;

—FMZO and FMF Proceedings No. 1/1977, FMZO Report on Capital Participation in foreign undertakings for obtaining raw materials and inputs from nonsocialist countries;

—FMZO and FMF Proceedings No. 5/1983, FMZO Report on Permitting Capital Participation Abroad In Connection With the Conduct of International Business, Transportation, and Freight Forwarding.

The legal aspects of direct relations with foreign business entities are also covered in Law No. 78/1983, Sb. with subsequent amendments and changes (civil code) and Law No. 188/1988, Sb. which amended and supplemented the Labor Code and selected provisions of the commercial code, as updated by Law No. 103/1990, Sb.

Future work will include the reworking and supplementing of the labor code, which is slated for a thorough revision during 1990.

6. Joint Ventures in the CSFR as of 14 May 1990

The listings below are in the following format:

Name, business area, partners and their capital share (in percent), date of establishment.

Note: Data for some firms is incomplete. 1. HALDEX, Ostrava. Processing waste rock from mining Tatabanya Srebanyak, Hungary (50), Ostrava-Karvina Mines [OKD], Ostrava (50). 3 January 1983.

2. ROBOT, Presov. Robotics research, development and production. Two organizations from the USSR (50), seven Czechoslovak organizations (50). 19 April 1985.

3. AVEX, Bratislava. Consumer electronics and video recorder production. N.V. Phillips, Eindhoven, Netherlands (20), Tesla Consumer Electronics, Bratislava and Prague Transakta Foreign Trade Organization [PZO] (80). 14 April 1987.

4. TESSEK, Prague. Chemicals and technology transfer. Senetek PLC, Denmark (49), Tesla MLP, Brno (51). 19 August 1986.

5. DANCCO, Prague. Production of pipe, adapters, fittings, and joints for gas pipeline construction. Naturgas Syd, Vejen, Denmark (49), CPP concern, Prague (51). 28 May 1988.

6. M.V.B., Moravsky Zizkov. Production of straddle carriers, tools, and accessories. Construnctions Mechaniques, VIGNOLLES, France (50); Mir united agricultural cooperative [JZD], Velke Bilovice (50). 30 March 1989.

7. VUTMATIC, Brno. Production of precision metal products and products for ecology programs. Farmatic Silotechnic, GmbH, FRG (49); Brno Technical College (51). 1 September 1989.

8. E.S.I.T., Prague. R&D in the field of industrial electric heating equipment. Esswerk AB, Ludvik, Sweden (51); Electric Equipment Factories [ZEZ], Prague (30), Zenitcentrum (19). 31 August 1989.

9. SURTEC, Zdice. Service coating of machinery components and tools, including R&D. Hauzer Techno, Venlo, Netherlands (10); A. Furrrer, Rapperswill, Switzerland (10); Service development workshops [VD], Prague (80). 24 May 1989.

10. FOMEX, Brno. Photomaterials processing, production of photographic chemicals and selected pure and specialty chamicals, machinery and equipment for photomaterials processing; photographic instruments. Autraco Holding GmbH., Vienna, Austria (51); Lachema, Brno, Fotografia VD, Zlin (49). 20 October 1989.

11. EUROMOTORSPORT, Prague. Production and introduction of new technologies, especially in the area of sports cars and special purpose motor vehicles. Racing Service Eng. Welden, FRG (44.4); AMK Motorsport ZO Svazarm Prague 20 (27.8); Velky Krtis State Property (27.8). 20 December 1989.

12. LUVEX, Prague. Engineering design services, exporting and importing air technology equipment. Varimpex, Grassi, Austria (49); Milevsko Air technology Equipment factories (51). 29 February 1988.

13. ELLAB, Brno. Production of electronic equipment for agricultural and other machinery, specialty tools. Vistrastart, Ltd., Great Britain (49); Czechoslovak-Soviet Friendship JZD, Kunstat na Morave (51). 9 January 1989.

14. DIALOG, Prague. Research, development and installation of computer, measurement and analytical equipment in priority facilities. Dialog, Moscow, USSR (52); Tesla, Brno, Metra, Blansko, and Klicany JZD (48). 9 June 1989.

15. TESOS, Bratislava. Development and production of industrial program systems, consultation and service. TK "NPFF", Sofia, Bulgaria (25); TL "KPTU", Sofia, Bulgaria (25); Datasystem, Bratislava (30); Svetom VD, Velke Rovne (10); Orgaprojekt, Prague (10). 5 June 1989.

16. MICROMEN, Prague. Computer system installation and software development. Microwin, Vienna, Austria (55.5); DOLMEN VD, Prague (44.5). 16 August 1989.

17. ARCUS, Prague. Application program develoment for IBM computers. Michael Seleny, West Berlin (60); Pod Horou JZD, Budislav (40). 4 July 1989.

18. ELTECO Zilina. Production of power supply systems, converters, testers, including computer systems and software. K. Serras S/A, France (20); Computer Technology Research Institute, Zilina (80). 22 May 1989.

19. POZIMOS, Luhacovice. Design and construction work. Imos Lublan, Yugoslavia (39); Vitrea (Mercantos), Ltd., London (10); Zlin Building Construction (51). 20 January 1989.

20. PRAGOPOL, Prague. Construction. Chemobudowa, Krakow, Poland (50); Konstruktiva, Prague (50). 10 November 1989.

21. AGROIMPEX, Melnik. Services and light construction, environmental protection, agricultural and forest soil work. Franz Kness GmbH., FRG (33.4); Kokorin JZD (66.6). 18 July 1989.

22. GEOLOGICKE INZENYRSTVI, Brno. R&D, geological prospecting and other tasks, including special projects, development and production of equipment. NPO Geotechnika, Moscow (15.8); VNII Krneft, Krasnodar (15.8); VSEGINGEO, Moscow (5.2); VNIIBT, Moscow (10.5); VITR, Leningrad (10.5); Gelogical Engineering research Institute (42.2); 11 April 1989.

23. OTES, Prague. Design, marketing, delivery, and installation of equipment for removing pollutants from gases. S-H-L Saarbrucken, FRG (50); Prerov Machine Works, Prerov (50). 6 June 1989.

24. AQUACOOP, Olomouc. Development of equipment and process systems for water management and sewer systems. AKH, Moscow (50); Sigma, Olomouc (50). 28 December 1989.

25. AGROTOP, Straznice. Processing wood into lumber. G. Topham und Co., GmbH., Vienna, Austria (40); Hodonin Agropodnik, Transakta PZO (60). 14 November 1988

26. SPARTAN, Trnava. Furniture manufacture. Ikano Holding, Amsterdam, Netherlands (4.9); West Slovak Furniture Plants, Bratislava (89.1); Transakta PZO, Prague (6.0). 7 September 1989.

27. ELK, Doubrava. Construction and sales of prefabricated wooden cottages. ELK Fertighaus, GmbH., Austria (40); Doubrava JZD, Kosice (40); South Bohemian Lumber Processing Plants, Ceske Budejovice (10); Rozhled JZD, Kardasova Recice (5); Tradex corporation, Prague (5). 21 April 1989.

28. MSZ, Dolni Nemci. Animal breeding for furs. MSZ, Seligenstadt, FRG (45); Javorina JZD, Dolni Nemci (55). 11 February 1988.

29. BIOINTER, Prague. Research, development, engineering and processing operations for the food industry, agriculture, and biotechnology. BELOVO, Bastogne, Belgium (33.3); Poultry Industry, Prague (66.7). 31 January 1989.

30. LIWAC, Lipovec. Animal breeding for furs. COSMO, Epplinger, FRG (18.2). Czechoslovak-Bulgarian Frendship JZD, headquartere din Lipovec (81.8). 1 August 1989.

31. PLANTATONICA, Bratislava. Cultivation of medicinal plants, production of medicinal and aromatic substances, research. Limonik, Vladivostok, USSR (25); Dalsokam, Petropavlovsk, USSR (25); SEMEX, Bratislava (59). 14 August 1989.

32. CHIPA, Pardubice. Animal breeding for furs. BWC, Schonberg, FRG (49); Pardubicko State Farm, Pardubice (51). 25 November 1989.

33. BALNEX, Prague. Convalescent care and construction of convalescent facilities. Warimpex, Vienna (49); Balnea, Prague (51). 29 February 1988.

34. BALNEX I, Prague. Convalescent care and construction of convalescent facilities. Warimpex, Vienna (31); Balnea, Prague (69). 29 February 1988.

35. INTERTHERMAL, Piestany. Renovation and construction of spas. Grassi Hotel Betail. GmbH, Vienna (49); Czechoslovak State Spas, Piestany (51). 17 February 1989.

36. RECOOP TOUR, Prague. Hotel construction and travel. Grassi, Vienna (49); Rekrea, Prague, Tradex (51). 26 February 1988.

37. HOTELINVEST, Prague. Hotel construction and travel. Warimpex, Vienna (49); Cedok, Prague (51). 28 December 1987.

38. TOURINVEST, Prague. Hotel construction and travel. CBC, Paris (49); Cedok, Prague (51). 2 February 1988.

39. TATRACOOP, Bratislava. Travel and hotel construction. IMEXIM, Vienna (49); DCK Tatratour, Bratislava (51). 22 November 1988.

40. AUTOTOUR, Prague. Hotel construction and travel. CBC, Bologne, France (49); Autoturist travel agency [CK], Prague (51). 7 December 1988.

41. INTERTOUR, Bratislava. Hotel construction and travel. CIE, Paris, France (49); Javorina CK, Liptovsky Mikulas (51). 31 January 1989.

42. EKOS, Prague. Construction and operation of hotels and restaurants. PORR International, Vienna (39); SIMAC GmbH., Eggersdorf, Austria (10); Youth Travel Office, Prague (51).

43. GESTIN, Prague. Construction and operation of hotels and travel facilities. Contracta, Vienna (39); IMEXIM, Vienna (10), Sport turist, Prague (51).

44. CASINOS CZECHOSLOVAKIA, Prague. Casino operation and travel services. Casinos Austria International, AG, Chur, Switzerland (51); Cedok, Prague (49). 10 December 1989.

45. CHINESE-CZECHOLOVAK OCEAN SHIPPING ENTERPRISE. China Ocean Shipping Co., People's Republic of China (50); Ocean Shipping (50). 26 April 1987.

46. TATRATRANS, Bratislava. Freight forwarding and transportation services. Almeta Holding GmbH., Vienna (50); Vitkovice Ironworks [VZ], Kosice (30); Kerametal corporation, Bratislava (15); Communal services, Kosice (5).

47. HERTZ-TRADEX, Prague. Automobile rental. FRG firm (40); Autodruzstvo, Prague (25); Tradex, Prague (35). 15 August 1989.

48. FLATEX, Prague. Production of textiles and accessories. Barkotex, Ltd., London, Great Britain (50); Bytex, Liberec (50).

49. DUNAVIA, Bratislava. Business. Ingka Holding Europe, Amsterdam, Netherlands (51); West Slovak Furniture Plants, Bratislava (39); Transakta PZO, Prague (10). 7 September 1989.

50. BOHEMIA FILM, Prague. Production of films, videos and audio-visual recordings. Megatrend GmbH,

Gelnhausen Roth, FRG (40); Short Film, Prague (50); Filmexport, Prague (10). 8 March 1989.

51. PRINTEX, Prague. Publication, printing, and distribution of Czech language edition of Burda, and foreign firm advertising. Verlag Aenne Burda GmbH, Offenbrug, FRG (15); Wagenhofer GmbH, Vienna, Austria (20); Printing Industry, Prague (45); Artia PZO (10); Transakta PZO (10). 24 July 1989.

52. AGROKOMERZ. Agricultural surpluses, foods, waste processing. Libun JZD , Jicin region and approximately 80 additional JZD.

53. TRANSTOP, Prague. Business services, technical advisory services, import and export of services. POLDI (UK) Ltd., London, Great Britain (16); G. Topham and Co., Vienna, Austria (16); Omnitrade Ltd., St. Laurent, Canada (4); Arrow, S.A., Lugano, Switzerland (12); Transakta PZO, Prague (52).

54. MERTIS, Prague. Advertising, distribution, and marketing services. TISSA, Moscow, USSR (30); Merkur, Prague (70).

55. FREECORP. Production and processing bee products, specialized animal production, biotechnology, services and construction work. M. Peeters. SIMTEX N.V., Belgium (22.2); Future Technology, Austria (11.2); VCELPO, Skalice nad Svitavou (22.2); Bobrava JZD, Moravany u Brna (22.2); Druzba JZD, Jenisovice (22.2).

56. HOETRA, Prague. Consultation and professional services for ecology. Holter Ind. Beteilingungs AG, FRG (85); Tradex PZO (15).

57. MULTISONIC Corporation. Recording and duplicating sound and image, music publishing, etc.

58. SKODA-URALMAS. Plzen.

59. UNITRADING corporation. Ostrava.

60. ALGO, Prague. Installation of computer and measurment systems and software development. Digiplan A.G., Zurich, Switzerland (48.7); Pragoprojekt, Prague (51.3).

61. ZE ENGINEERING, Prague. Development and modification of software, computer-aided engineering work, design services, consultation. EMEXCO Export-Import, Marketing, Finance and Service GmbH., FRG; Energoprojekt, Prague.

62. TOSCANA, Prague. Production and sale of selected foods and services in public eating establishments. GE.PAM, Viareggio, Italy (49); Foodstores, Prague (51).

63. GEMIAL, Bratislava. Production of frozen and canned foods and services.

64. BLATINIA, Prague. Hotel construction and operation. Danisch Project Devp. Co., A/S, Copenhagen; Future JZD, Blatnice; Agroprojekt, Prague.

65. PRAGOHOTEL, Prague. Construction and operation of hotels and travel facilities.

66. INTEROM, Brno. Construction and operation of hotels and travel services.

67. ECO-GEO Prague. Engineering geology and hydrogeology, consultation services. Gaugeologie GmbH, Vienna; Construction Geology, Prague.

68. MEDIAGUA, Prague. Production of rehabilitation equipment and equipment for underwater massage.

69. CONEX, Prague. Travel consultation and services.

70. ACROPOLY, Bratislava. Hotel construction and operation.

71. TESVO, Stare Civice. Services for sporting and recreational travel.

72. MICRO BUSSINESS B CENTER, Usti nad Orlici. Technical consulation and service activities, agency services.

73. FORTUNA, Prague. Operation of lottery activities and arcade games.

7. Procedure for Setting Up and Operating Principles for Joint Venture Corporations.

Since corporations will clearly be the most frequent form of joint venture we will write about them in more detail.

The founder of a corporation can be the state, a cooperative, or an entrepreneur, either a legal entity or a physical person. The corporation can be established by a single founder. A joint participant in the founding of a corporation (joint venture) can likewise be a foreign legal entity.

The business purpose of a corporation is to produce outputs that can be contracted for, priced, invoiced, and documented. The actual operations are started by selling stock to raise capital. A stock is a security with a par value of at least Kcs1,000, on the basis of which its owner-stockholder has the right to participate in the management of the corporation, to share in its profits and in any residual property after its dissolution. Owners of the same number of shares have the same rights provided the shares are not of different classes (every class of stock, though, must have the same par value). Stocks may be issued as bearer or registered.

For **registered stock** the corporation must maintain:

—A list of the stockholders (business name or names of the owners);

—The headquarters of the firm or address of the person.

Bearer stocks are freely transferrable. The bearer has the rights conferred by the stock. These stocks can be transferred by endorsement in compliance with Law No. 191/1950, Sb. (the exchange and check law), which requires that the endorsement contain:

—The business name of the firm (name of the individual);

—The headquarters of the acquirer of the stock;

—The time period for which the transfer is valid.

The stock certificate must contain this basic information:

—The name and headquarters of the corporation;

—The serial number and par value of the stock;

—A designation of the stock as registered or as bearer;

—If a registered stock, the name of the owner must be included;

—The class of stock and a summary of the rights accorded the stock under the corporation charter;

—the date of issuance and amount of basic capital in the corporation;

—The number of shares of stock of this class at date of issue;

—Signatures of two officers authorized to sign for the corporation.

Any stock issued before the corporatin is entered in the enterprise register is not valid. The founders can however issue temporary notes confirming for the future stock holders their subscribed contributions of money or other property to the future corporation and how much of it has already been paid. A temporary note is registered, and considered a security assuring full rights to the future stockholder. After the corporation is entered in the enterprise register and the stock has been issued the holders of temporary notes may receive stock of the correct value as either common or registered stock.

Classes of stock (must be specified in corporate charter):

—**Preferred stock**. Have priority to share of profits; have voting rights, and may be issued for up to 50 percent of the basic capital of the corporation.

—**Employee stock**. Given to corporate employees or sold to them at a favorable price; can be issued only for amounts in excess of the basic capital; if issued the basic capital must be increased by this amount. Employee stocks can comprise no more than 10 percent of the basic capital. These stocks are registered and transferrable only among employees.

—**Interest bearing stock**. Entitle the owner to predefined interest payments based on the par value of the stock, regardless of the profitability of the corporation. Owners are also entitled to dividend payments over and above the interest payments. This type of stock also cannot account for more than 10 percent of the basic capital.

—**Issuance of a loan record**, to an individual who has paid in a certain amount to the corporation (up to 50 percent of its basic capital). The record confers on this person the right to be paid back in installments at a specified interest rate, to be issued stock or given first right of refusal to purchase stock of a certain value, or mortgage rights to corporate property. The document can be registered or bearer, confers no shareholder rights and does not increase the basic capital.

The corporation can use assets in excess of its basic capital to buy back issued or fully-paid stock (up to 30 percent of the basic capital). The corporation must either sell these stocks within three years or take them out of circulation. When there are multiple stock owners they can name a common representative, which must be entered in the list of stockholders.

7.1 Procedure for Planning and Establishing a Corporation

7.1.1. Developing Corporate Objectives

One of the first tasks when setting up a corporation is the serious consideration and statement of corporate activities. To do this it is suggested that a corporate objective be formulated or at least a preliminary technical and economic analysis even though this is not required. Doing so, however, allows the corporate founders to establish a realistic idea of the operations, organization, and profitability of their future undertaking. This type of preparation is especially important if we want to attract foreign capital participation in forming the basic capital of the corporation.

It is also necessary to develop:

—A draft of the founding document (or founding plan if there is a single founder);

—A proposed corporate charter (constitution);

—The basic organizational structure;

—A basic economic plan concerning the amount of paid-in capital expected, how it will be recognized, and how the corporation will operate;

—Resources, how planning, registration, and initial startup expenditures will be covered (including foreign currency requirements);

—A team of coworkers, or a plan for recruiting qualified professionals with a knowledge of market economies, marketing, computers, personnel, the organization and management of work collectives. Foreign language knowledge is increasingly important.

7.1.2. Meeting of the Corporate Founders

The purpose of this meeting is to evaluate and further develop the materials of the founding entrepreneurs (future stockholders), if possible by a group of specialists. To develop specific objectives the founders typically form such a group from potential stockholders and

experienced lawyers, economists, and other experts in day to day operations and research. This founders meeting should result in an assessment of the readiness of the contract founding the corporation, and possibly an assessment of the status of other documents.

7.1.3. Signing the Founding Contract (Plan) of the Corporation

The founding contract must contain:

—The business name of the firm and its headquarters address;

—The purpose of the corporation;

—The time period for which the corporation is being established;

—The proposed level of basic capital and the conditions for raising this capital appropriately publicized;

—The minimal permissible amount of a founders share of the basic capital;

—The number of shares and par value of stock (if there will be more than one class of stock they must be identified and the rights conferred by each class specified);

—The location and date of the first and last availability of stock (in the form of a signed list of subscribers; at the same time at least 10 percent of the subscribed amount must be deposited);

—The types and approximate value of nonmonetary contributions (paid in to the corporation as part of the basic capital); this must be evaluated by a court appointed assessor;

—The business name (headquarters), or the name (residence) of those providing nonmonetary contributions and the name of the assessor who evaluated these contributions;

—The method for convening a founding meeting of stockholders.

The founding contract must be signed by all stockholders and accompanied by the corporate charter.

7.1.4. Developing a Corporate Charter (Constitution)

A corporate charter must contain:

—The business name and headquarters of the corporation;

—The time period for which it has been formed;

—Its business objective;

—The amount of basic capital;

—Terms for paying up stock subscriptions;

—The number of shares and par value of stock;

—Classes of stock, designating each as either registered or bearer;

—Type of entry for the corporation in the enterprise register and enterprise court;

—Method for convening stockholder meetings as well as procedures to be followed if a stockholder meeting is unable to reach a decision;

—Conditions and ways to exercise stockholder voting rights;

—Number of members on board of directors, supervisory council, and auditors, and how they will be elected;

—Designation of the authority and terms of the above corporate offices;

—Principles for compiling the balance sheet and regulations governing distribution of corporate profits;

—The means to be used to publicize matters as prescribed by law or by the corporate charter;

—The consequences of violation of the responsibility to pay for subscribed stock in a timely manner;

—The amount and uses of the reserve fund;

Identification of specific classes of stock, the number of shares in each class, the value of the stock and rights conferred by each class of stock (if the corporation decides to issue stock in this way);

—The regulations governing the issuance of notes (loan notes), if the corporation decides to do so;

—The possibility for buying up shares of stock, and the procedure for doing so;

—The authority of the board of directors when it is necessary to increase the basic capital of the corporation (if this cannot be handled by a stockholders meeting upon recommendation of the board).

7.1.5. State Permits

If regulations stipulate that permits are required to engage in the proposed business of the corporation, then the necessary permits must be submitted to the enterprise court along with the other documents needed to establish the corporation. If the permit is not included the registry court cannot enter the name of the corporation in the enterprise register. An example is the permit required until recently to engage in foreign trade activities (unless, of course, the corporation includes a foreign participant among its founders who contributes to the basic capital). This permit will be replaced in 1990 by simple registration accompanied by a security deposit. Basically, an applicant must deal with the ministry appropriate to the business purpose indicated in the corporate charter.

7.1.6. Founding Stockholder Meeting

The founding stockholder meeting must be held no later than 60 days after the last successful stock offering. Prior to convening the meeting the subscriber(s) are required to pay in an amount equal to at least 30 percent of the total stock subscription. This provision does not apply to those who made nonmonetary contributions. If the 60 day deadline for convening the founding shareholder's meeting is not met, the subscribers are freed of their obligations and can request a full refund of their contribution from the founders.

The main tasks (agenda items) of the founding stockholders meeting include:

—Setting the quorum as the presence of stock subscribers who provided at least 50 percent of the basic capital of the corporation;

—Resolving that the basic capital has been subscribed and that 30 percent has already been paid in (at least Kcs50,000);

—Deciding whether to issue more stock;

—Deciding how to set up the corporation;

—Approving the corporate charter;

—Making a decision on founder privileges;

—Deciding whether to approve any agreements reached during the founding of the corporation with the founders or other parties that might have an impact on corporate operations;

—Determining the value of nonmonetary contributions and the deadline for their availability to the corporation;

—Election of a board of directors and supervisory council for a one year term (unless the founders retained this right in the founding contract);

—Election of auditors.

A simple majority of the stocks of the stockholders present is sufficient for the decisions taken at the stockholders meeting. This does not apply, though, to the founding contract, which can be changed only by unanimous vote of those present. Stockholders do not vote on decisions concerning nonmonetary contributions and founder privileges. Notarized minutes of the general stockholders meeting must be prepared (under Law No 95/1963, Sb., concerning state notaries and proceedings in the presence of state notaries).

If the founders agree in the founding contract that they themselves will pay in all the basic capital in an established ratio there is no need either to issue stock or to hold a stockholders meeting. In this case the founders (legal entities) make all decisions concerning the affairs, documents, and offices of the corporation.

7.1.7. Entering the Corporation in the Enterprise Register

A corporation is legally established when it is entered in the enterprise register at the registry court. All members of the board of directors sign the registration application.

Registration must be preceded by:

a) The convening of a general stockholder's meeting to establish the corporation;

b) Subscription of the basic capital;

c) Payment of at least 30 percent of the subscribed basic capital;

d) Submission of an approved charter by the founding stockholder's meeting and a notarized record of its proceedings;

e) The assignment of an identification number to the corporation (assigned by statistical offices).

After recording at the registry court a corporation can open the necessary bank accounts and apply for permission to engage in other activities (e.g. travel and the like).

The corporate organizational form at present is the most attractive to partners from economically advanced countries for joint ventures with Czechoslovak legal entities. This means that we will have to undertake an extensive reform of a number of economic laws and regulations.

7.2. Responsibilities and Rights of Stockholders

Stockholder Responsibilities

—Pay the corporation the full value of the stock, within one year of the registration of the corporation (payment deadlines are specified by the corporate charter).

—If payments are delayed the stockholder is required to pay interest on the delayed balance (up to 20 percent);

—If payment is not made within 60 days of a demand for such payment the board of directors may declare a temporary note to be null and void (the stockholder loses his rights);

—If a temporary note is transferred to another individual before the par value of stock is fully paid the original stockholder is held as guarantor for the payment of the outstanding balance;

—A stockholder may not demand the return of any property contributed to a corporation either during its existence or after it is dissolved.

—On the other hand, stockholders are not required to return dividends received in good faith (bona fide) from the corporation;

—A stockholder may not exercise his right to vote until fully honoring his responsibilities concerning payment for stock.

Stockholder Rights

—A stockholder has a right to a share of corporate profits (dividend) based on the number of shares (temporary notes) owned, from an amount for distribution specified by a stockholder meeting;

—If the corporation fails the stockholder has a right to a share of the corporate property available for distribution after liquidation; the share is proportional to the number of shares owned;

—A stockholder has the right to participate in stockholder meetings;

—Based on preferred stock with voting rights a stockholder is authorized to make motions and vote on these and other motions presented at a stockholder meeting;

—A stockholder may request in writing certain information from the board of directors pertinent to stockholder meeting business and to receive this information at least eight days prior to the convening of the meeting;

—The voting rights pertaining to a stock are governed by its value, with the corporate charter specifying the largest number of votes that can be exercised by a single stockholder;

—An authorized representative may vote in place of the stockholder (the person cannot be a member of any office of the corporation; the power of attorney applies to only a single stockholder's meeting);

—If a stockholder owns preferred stock with limited or nonexistent voting rights and the corporation during the current and immediately prior year has failed to pay a dividend or paid only a partial dividend, the stock held acquires voting rights until such time as the dividends owed have been paid;

—A stockholder can request that the board of directors place new issues on the agenda for a stockholder meeting if he or she owns shares equal to at least 10 percent of the basic capital; this right must be exercised no later than eight days prior to the convening of the meeting;

—A stockholder owning at least 10 percent of the basic capital can petition the supervisory board, with good reason, to examine the business activities of the corporation, and if the supervisory board does not honor the request he can make the same request at a stockholder's meeting;

A stockholder or any other office of the corporation has the right to bring suit to overturn a corporate decision if it is believed that the decision is illegal. In such cases a bond must be posted at the court in the amount of the value of at least one share of stock, to a maximum of Kcs10,000;

—All stockholders are bound by all legal verdicts.

7.3. Corporate Organization

The executive office of a corporation is the stockholders meeting. All stockholders have the right to attend. It is convened at least once a year by the board of directors.

The Stockholders Meeting

—Approves and changes the charter;

—Increases and decreases basic capital;

—Changes the rights pertaining to specific classes of stock;

—Elects, recalls, and sets compensation for corporate officers (board of directors, supervisory board, auditors);

—Approves annual accounting results and dividend distributions;

—Makes decisions in all matters that by law must be decided by the general stockholder's meeting.

Matters related to convening a stockholders meeting:

—The invitation must contain the name and headquarters of the corporation;

—The date and location of the meeting;

—The meeting agenda;

—Conditions specified in the charter and voting procedures;

—The invitation for holders of bearer stock must be publicized at least 30 days prior to the meeting;

—An attendance list is maintained at the meeting (containing the name and firm of the stockholder (or representative), headquarters (residence), number of shares and votes allowed by preferred shares); the accuracy of the attendance list is verified by the chairman and the secretary;

—The meeting can make binding decisions if holder's of more than 50 percent of the preferred shares are present;

—If a quorum is not met, the board of directors convenes another meeting within 15 days with the same agenda; this second session can make decisions regardless of the number of attenders.

Matters related to conduct of the stockholder meeting:

—The meeting first elects a chairman, secretary, two verifiers for the minutes, and people to count votes;

—Minutes of the general meeting proceedings are maintained containing:

a) The name and headquarters of the corporation;

b) The location and time of the meeting;

c) The names of the chairman, secretary, minute verifiers, and vote counters;

d) The important events of the meeting, and verbatim record of the speeches of participants. Written submissions and speeches are attached to the minutes;

e) The decisions of the meeting, including the number of votes for, votes against, and number of abstentions;

f) Protests of stockholders and corporate officers against decisions, if the protestor wants to be put on the record;

g) Decisions of the meeting that change the rights pertaining to a specific class of stock to the detriment of holders of that class of stock become valid if approved by 75 percent of the holders of that class of stock;

h) The minutes are signed by the secretary and chairman and their correctness is attested to by the two verifiers of minutes;

i) The minutes must be completed no later than 30 days after conclusion of the meeting (the announcement and convention of the general meeting along with its attendance list are maintained in the corporate archives for the life of the corporation).

Corporate Board of Directors

A constitutional corporate office. The board represents the corporation to third parties, directs the work of the corporation, and hires employees. It is usually composed of three to 11 members. The members of the board choose a chairman. The members of the board are responsible for damages caused by the corporation jointly and equally. Board members can be employed within or outside the corporation (consultants, bankers, lawyers, scientists, etc.). The effectiveness of the work of the board of directors depends to a large extent on the balance between these two groups of people.

Board responsibilities:

—Producing the final accounting report and recommending the amount to be distributed as dividends;

—Producing reports of business activities, the status of corporate property, corporate policies for the stockholder's meeting at intervals specified in the charter (at least once a year);

—Assuring that corporate accounting records and business documentation are maintained properly;

—Convening a stockholder's meeting and informing the supervisory council when the corporation has lost one third of its basic capital or is insolvent for a period of three months or more;

—Publishing, as provided for in the charter, pertinent accounting information, the proposed dividend distribution, the report of the board of directors, and the supervisory council no later than 30 days prior to the general meeting;

—Convening an extraordinary stockholder's meeting if requested with proper justification by stockholders owning at least ten percent of the basic capital; if the board of directors does not convene the meeting within 30 days the registry court is empowered to do so upon stockholder request;

—Include in the general meeting agenda additional stockholder motions (if submitted as provided in the charter), if the stockholder owns at least ten percent of the basic capital, and to publish the motion no later than eight days prior to convening the meeting in a way consistent with the corporate charter; if the board of directors does not meet this responsibility the registry court is empowered to amend the agenda upon stockholder request, within three days of the request submission.

Supervisory Council

Elected by the stockholder meeting from stockholders or other experts. Usually has at least three members (no member can be employed by the corporation, however; an exception exists if the annual employee census shows more than 200 employees, in which case one third of the supervisory council must be elected from the ranks of the employees).

The supervisory council is intended to be the controlling office of the corporation. It is authorized to:

—Verify procedures in all areas of corporate activity;

—Check at any time billing records and other corporate documents;

—Determine the status of the corporation;

—Review the annual accounting records, balance sheet and proposal for dividend distribution;

—Submit to the general meeting each year a report on its supervisory efforts;

—Participate in the stockholder's meeting and submit motions to it;

—Inform the general meeting of minority views, especially differing views of employee representatives on the council;

—Convene extraordinary stockholder meetings in the interest of the corporation;

—Represent the corporation in disputes with the board of directors as a whole or against its individual members;

—Carry out its obligations as a supervisory council either jointly or as individual members;

—Allocate control activities permanently to individual members (without limiting any other rights of a member of the supervisory council);

All other control offices that may be set up by the corporation are subordinate to the supervisory council.

Auditors

A corporation must elect at least one auditor at its stockholder meeting. Just as with other corporate officers, an external expert may be elected to perform this task. The auditor's tasks are defined both by the charter and by the name of the function. The auditor may be charged by the stockholders meeting to perform other control functions as needed (taking account of pertinent legal standards).

7.4 Increasing and Reducing Capital Stock

It is possible to consider increasing the basic capital of a corporation when the par value of all outstanding stock has been fully paid in to the corporation. After approving year end accounting results the stockholder's meeting can decide to transfer resources in excess of the basic capital to new shares (thereby increasing the basic capital). Alternatively the stockholder's meeting can increase the par value of existing stock by the excess amount.

The basic capital of a corporation can also be increased by exchanging outstanding temporary notes for stock. A motion to increase basic capital must be made by the board of directors and approved by the stockholders meeting. It is then implemented by the board of directors.

A motion to increase the basic capital of a corporation must be accompanied at the stockholders meeting by:

—Reasons for increasing the basic capital, the means of doing so and the lowest possible level of increase;

—A motion to update the pertinent sections of the charter related to the amount of basic capital;

—The number, par value, and class of new stock;

—If a new class of stock is being issued the rights accorded to that stock class must be specified and the impact of these rights on outstanding shares spelled out;

—The date of the first and joint stock offering (if the basic capital increase will be implemented by issuing new stock);

—Proposed value of nonmonetary contributions (if the basic capital increase will be implemented this way). In this case, however, the corporation can increase its basic capital even before the par value of existing stock has been fully paid in.

Conditions related to increasing basic capital with a new stock subscription (issue):

—An amount approved by the stockholder's meeting but at least 30 percent of the par value of each share, must be paid;

—The stockholder's meeting can decide (by yes vote of 75 percent of authorized stockholders) to give existing stockholders right of first purchase of new shares, along with a deadline for exercising this right;

—Holders of notes can exercise their rights to exchange their notes for the new stock before the stockholders do so;

—The stock subscription can be initiated after recording the decision of the meeting to increase basic capital in the enterprise register;

—If an existing stockholder does not acquire new stock prior to the conclusion of the next general meeting the corporation can freely sell the stock;

—If the corporation decides to increase basic capital by increasing the par value of existing stock it can do so by simply exchanging the original shares for the new ones with the higher par value or make an entry on the original shares indicating the higher par value, signed by two authorized members of the board of directors;

—An increase in basic capital can also come directly from the enterprise charter which can stipulate that if there is an excess of resources the board of directors is directed to increase the basic capital. Such clauses however must limit such an increase to one third of the current basic capital.

The basic capital can also be increased conditionally by vote of the stockholder's meeting. The objective of this approach is not the direct offering of stock but the acquisition of additional capital for which the above mentioned temporary notes are issued. Using these notes, their owners can request shares against the conditionally increased basic capital. Stockholder rights, however, take effect in these instances only after issuing the stock to its new owner.

Responsibilities of the board of directors when increasing basic corporate capital:

—Inform the registry court of the decision of the stockholders meeting or board of directors to increase basic capital within 30 days of the decision;

—If the decision is to increase basic capital conditionally, the board of directors must inform the registry court of this fact within 30 days of approval of annual accounting information;

—The increase in basic capital is valid, and the capital therefore usable, from the time the registry court records the decision in the enterprise register. Likewise, stock or temporary notes can be issued only after this entry has been made;

—New stock issued due to an increase in basic capital participate in the dividends declared in the year of issue; the same regulations apply to these shares even if they remain the property of the corporation.

Reducing Basic Capital

The corporate stockholder meeting also decides when to reduce the basic capital of the corporation. It must:

—Be aware of, and state the reasons for reducing basic capital;

—State the method to be used and the amount by which basic capital should be reduced;

—Announce the time frame for presenting corporate stocks for redemption;

—The stocks removed from circulation must be for the property of the same corporation;

—Regulations concerning minimal capital requirements must be complied with;

—Reductions in basic capital are not allowed to impact the rights of holders of temporary notes.

Responsibilities of the board of directors when reducing basic capital:

—Announce the decision of the stockholder meeting to reduce basic capital to the registry court within 30 days of the decision;

—Publicize the decision (after it has been recorded in the enterprise register with two announcements placed 30 days apart;

—Offer creditors appropriate compensation. Creditors whose claims against the corporation arose prior to the first publication of the decision to reduce basic capital can demand compensation from the corporation in the full amount of their claims (this right exists for only 90 days from the date of the last announcement of the capital reduction decision);

—Corporations can implement a reduction in their basic capital in one of the following ways:

a) reduce the number of shares (recalling shares); the number of shares can also be reduced by buying back submitted shares (the regulations are set by the stockholder's meeting);

b) Reducing the par value of each share (by exchanging original shares for new ones or noting the reduction on the existing shares);

c) By simultaneous reduction in the number of shares and a decrease in their par value;

d) Assigning the definition (and rights) of a smaller class of stock to a larger class (so-called merger); this involves the exchange of a given number of shares for a single share with the current par value;

—Publish, as specified in the charter, a notice to stockholders to present their shares for exchange, for notation of the reduced value, for removal from circulation, or for merging; stock not submitted under this notice is subsequently declared invalid by the corporation (this must also be announced);

—New stock must be issued to replace the shares declared invalid, and can be sold. The proceeds from this sale are distributed to the stockholders whose shares have been declared invalid or are temporarily deposited in a bank.

After 90 days have passed from the decision of a stockholders meeting to reduce basic capital, which was announced in time to the registry court, this court, upon request of the corporation, records the decision to reduce basic capital in the enterprise register. Only then does the decision take effect. Payments to stockholders at the expense of basic capital or release from payment obligations for stocks are possible and legal only after the recording of the intent to reduce basic capital in the enterprise register.

If the corporation has been set up for a limited time period (for instance if it was expected that all the basic capital would be used up after a certain time), the corporate charter must specify the means by which, during the existence of the corporation, all shares will be paid out to the stockholders from net profits. The principle of gradual paydown of stock is based on the removal of selected stocks from circulation, issuing to its owners, in addition to the par value of the stock, a so-called participatory note specifying rights accruing to the stocks removed from circulation.

Holders of stocks not so selected must, under the charter, be allocated a portion of net profits for dividends to be distributed only to these stockholders.

Corporations cannot be dissolved even when all stock has been called in and paid off. Only a meeting of holders of participatory notes can vote to dissolve a corporation.

7.5. Dissolving Corporations

Conditions for legal dissolution of a corporation:

—A decision to do so by a stockholder meeting in accordance with the corporate charter;

—Achievement of the objectives for which the corporation was formed (only if these are stated in the charter);

—End of the period of time for which the corporation was founded.

The actual moment of dissolution of the corporation occurs after the corporation has been liquidated, when its name is removed from the enterprise register.

Preconditions and procedure for liquidating a corporation:

—The stockholder's meeting must approve a motion by the board of directors for liquidating the corporation, appoint a liquidator and define his or her authority;

—The function of liquidator may be performed by the board of directors or an unaffiliated person, the decision being made by the stockholder's meeting;

—Stockholders owning at least ten percent of the basic capital may petition the registry court to designate another liquidator (with sufficient reason). The corporate charter may set lower ownership limits for such a stockholder request;

—The liquidation of the corporation and the liquidator are entered, upon request of the board of directors, in the enterprise register and the name of the enterprise is changed to include the designation "in liquidation". Corporate offices then devote their time to tasks related to the liquidation;

—The liquidator is required to announce immediately to all affected offices and individuals that the corporation is "in liquidation" (for instance, as specified in the charter and other general authorities and standards related to corporate business).

—Liquidation of a corporation with outstanding debts is governed by Law No. 99/1963, Sb., which involves the civil code including all subsequent amendments and supplements;

—The liquidator is also responsible for closing the corporation's books on the day the liquidation begins and producing other accounting reports;

—Detailed responsibilities of liquidators are specified in the section on enterprises with foreign capital participation.

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DATE FILMED

4 April 1991